

IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CASE NO. 2025 CA 000505

CITY OF SOUTH MIAMI; and
JAVIER FERNANDEZ, in his official
capacity as Mayor of the City of South
Miami,

Plaintiffs,

v.

RON DESANTIS, in his official capacity as
Governor of the State of Florida; and
JAMES UTHMEIER, in his official capacity
as Attorney General of the State of Florida,

Defendants.

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs bring this action against Defendants for declaratory relief, and state as follows:

OVERVIEW

1. This is an action brought by the City of South Miami (“City” or “South Miami”) and South Miami’s Mayor, Javier Fernandez, in his official capacity (“Mayor”), seeking a declaration that the City is not required by Florida law to enter into a “287(g) agreement” with United States Immigration and Customs Enforcement (“ICE”), and seeking further related declarations.

2. The City of South Miami uses best efforts to comply with the provisions of Chapter 908, Florida Statutes, and cooperate with federal immigration authorities to enforce immigration laws within the City’s municipal limits. Since the enactment of Chapter 908, neither the City Commission, nor its City Manager or Police Chief, have established any ordinance, policy, practice, or custom that in any way seeks to impede the City’s police officers from cooperating

with federal authorities in their immigration enforcement efforts, all while the City's Police Department advances its central mission of preventing crime, maintaining the peace, and protecting life and property in South Miami.

3. One of the possible ways for a municipality, like South Miami, to work with federal immigration authorities, is to enter into a so-called "287(g) agreement," a type of agreement authorized by and made expressly voluntary under federal law. Such agreements authorize qualified officers of local law enforcement agencies to perform designated immigration officer functions.

4. Municipalities consider a variety of factors when choosing whether to execute a 287(g) agreement, including the potential fiscal impact upon the municipality, and the municipality's potential exposure to liability—and consequent impact upon taxpaying residents—arising out of its police officers' participation in federal immigration enforcement.

5. Governor DeSantis and Attorney General Uthmeier have taken the position that a municipality's entry into such a 287(g) agreement is *mandated* by Chapter 908, Florida Statutes.

6. Among other things, Attorney General Uthmeier has taken the position that a municipality's failure to approve such an agreement constitutes the adoption of an unlawful "sanctuary policy," subjecting the municipality and individual municipal officers to enforcement action pursuant to section 908.107, Florida Statutes.

7. Governor DeSantis and Attorney General Uthmeier have in fact threatened to use their enforcement powers against municipalities and municipal officers in an effort to coerce municipalities into executing 287(g) agreements.

8. Under the City's reading of Chapter 908, the City is not required by law to enter into a 287(g) agreement, for several reasons.

9. Among other things, section 908.11, Florida Statutes, specifically requires “the sheriff or the chief correctional officer operating a *county* detention facility” to enter into a 287(g) agreement (emphasis added). And Chapter 908’s definition of a prohibited “sanctuary policy” correspondingly includes action of a local government entity that limits or prohibits entry into 287(g) agreements “*as required by s. 908.11*” (emphasis added); i.e., the provision requiring only *county* officers to enter into such agreements.

10. By contrast, the Legislature chose *not* to include a requirement for *municipalities* to enter into a 287(g) agreement, despite being specifically asked to include that requirement by the Governor in advance of a 2025 special session.

11. Indeed, Chapter 908 contains no express *requirement* that municipalities enter into 287(g) agreements; and the definition of “sanctuary policy” makes no reference to 287(g) agreements except as expressly limited to the *county* requirement. Therefore, the plain text of the statute does not support the Governor and Attorney General’s expansive reading of the controlling statutes.

12. Further, while section 908.102(6)(h), Florida Statutes includes within the definition of “sanctuary policy” a policy that prohibits or impedes the City from “[p]articipating in a federal immigration operation with a federal immigration agency as permitted by federal and state law,” the failure to sign a 287(g) agreement does not amount to such a policy for several reasons. First, simply not signing an agreement is not an affirmative act and does not constitute limiting or prohibiting any activity. Second, the failure to sign a 287(g) agreement cannot be impliedly read into the general statement in subsection (h), where the “sanctuary policy” definition specifically addresses the failure to sign 287(g) agreements in subsection (d) and makes that failure applicable only to counties as required by section 908.11. Finally, as the governing federal statute authorizing

287(g) agreements expressly recognizes, signing an agreement is not required for a local law enforcement agency “to communicate with [ICE] regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States”; or to “cooperate with [ICE] in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States,” broadly encompassing the range of any potential “immigration operation” in which a local law enforcement agency might participate. *See* 8 U.S.C. 1357(g)(10)(A)-(B).

13. Moreover, even if the failure to execute a 287(g) agreement is deemed to constitute adopting or having in effect a sanctuary policy, the Governor’s enforcement authority is more constrained than the Attorney General contends the statute purports to allow.

14. The Governor cannot take enforcement action other than what is allowed by the plain language of section 908.107, Florida Statutes, or in excess of what is authorized by Article IV, Section 7, of the Florida Constitution. This includes:

- a. The Governor may not take any enforcement action against any individual officer on the basis of a municipality adopting or having in effect a sanctuary policy because only a “municipal officer who violates his or her duties” under Chapter 908 is subject to the Governor’s enforcement powers under section 908.107, Florida Statutes, and a municipality’s adoption or allowance of a sanctuary policy violates no duty that Chapter 908 imposes upon individual municipal officers.
- b. Section 908.107, Florida Statutes, applies only to an “executive or administrative . . . municipal officer” not an elected officer, and therefore does not authorize the Governor to take enforcement action, including suspension or removal, against a local elected officer.
- c. To the extent section 908.107, Florida Statutes, is otherwise construed to authorize the Governor to take enforcement action against municipal officers, including “in the exercise of his or her authority under the State Constitution and state law,” the Governor may nevertheless not exceed the scope of authority granted by Article IV, Section 7, of the Florida Constitution, which limits the Governor’s authority to suspension of elected municipal officers indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.

- d. Regardless of any law purporting to grant authority exceeding Article IV, Section 7, of the Florida Constitution, the Governor (i) may not suspend or remove any non-elected municipal officer from office, (ii) may not remove any elected municipal officer from office, and (iii) may not suspend any elected municipal officer from office except where an elected municipal officer has been indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.

15. Accordingly, South Miami seeks relief under Florida's Declaratory Judgment Act, seeking declarations that:

- a. Not executing a 287(g) agreement does not constitute adopting or having in effect a sanctuary policy, as defined in section 908.102(6), Florida Statutes, in violation of section 908.103, Florida Statutes.
- b. If sections 908.102(6) and 908.103, Florida Statutes, are determined to require the City to execute a 287(g) agreement, the Governor's enforcement powers under section 908.107, Florida Statutes, are limited as follows:
 - i. The Governor may not take any enforcement action against any individual officer on the basis of a municipality adopting or having in effect a sanctuary policy because only a "municipal officer who violates his or her duties" under Chapter 908 is subject to the Governor's enforcement powers under section 908.107, Florida Statutes, and a municipality's adoption or allowance of a sanctuary policy violates no duty that Chapter 908 imposes upon individual municipal officers.
 - ii. Section 908.107, Florida Statutes, applies only to an "executive or administrative . . . municipal officer" not an elected officer, and therefore does not authorize the Governor to take enforcement action, including suspension or removal, against a local elected officer.
 - iii. To the extent section 908.107, Florida Statutes, is otherwise construed to authorize the Governor to take enforcement action against municipal officers, including "in the exercise of his or her authority under the State Constitution and state law," the Governor may nevertheless not exceed the scope of authority granted by Article IV, Section 7, of the Florida Constitution, which limits the Governor's authority to suspension of elected municipal officers indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.
 - iv. Regardless of any law purporting to grant authority exceeding Article IV, Section 7, of the Florida Constitution, the Governor (i) may not suspend or

remove any non-elected municipal officer from office, (ii) may not remove any elected municipal officer from office, and (iii) may not suspend any elected municipal officer from office except where an elected municipal officer has been indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.

JURISDICTION AND VENUE

16. The Court has jurisdiction over this action for declaratory relief. *See* § 86.011, Fla. Stat.; *Martinez v. Scanlan*, 582 So. 2d 1167, 1170 (Fla. 1991).
17. Venue is proper in Leon County, which is the official residence of both Defendants.

THE PARTIES

18. Plaintiff City of South Miami is a municipality existing under the laws of the State of Florida and is located in Miami-Dade County, Florida.
19. South Miami is a municipality established pursuant to Article VIII, Section 2(a) of the Florida Constitution and is authorized to exercise home rule powers pursuant to Article VIII, Section 2(b), of the Florida Constitution.
20. Plaintiff Javier Fernandez is the duly elected Mayor of the City and sues in his official capacity.
21. Defendant Ron DeSantis is the Governor of the State of Florida and is sued in his official capacity.
22. Defendant James Uthmeier is the Attorney General of the State of Florida and is sued in his official capacity.
23. Defendants each have an actual, cognizable interest in the action.

FACTUAL ALLEGATIONS

A. The City of South Miami, Its Police Department, and Cooperation With Federal Immigration Authorities

24. Pursuant to Section 2-12 of South Miami's City Code, South Miami has a Police Department which, under the supervision of the police chief, performs the following traditional functions of a local law enforcement agency:

- a. Enforce the laws and ordinances.
- b. Prevent crime and maintain peace and order.
- c. Protect lives and property from malicious damage and injury.
- d. Maintain and care for all property assigned to the police department.
- e. Prosecute all violations within its jurisdiction.
- f. Prepare and maintain all records required by law and the city manager.
- g. Install and maintain all traffic regulatory signs and signals.
- h. Maintain all traffic control street markings.
- i. Perform all other related functions as required.

25. Although considered a "law enforcement agency" under section 908.102(4), Florida Statutes, South Miami's Police Department does not have authority to enter into agreements on its own; instead, agreements may only be entered into by the City.

26. The employment of police officers in the Police Department has been and continues to be the subject of collective bargaining agreements, to which the City is a party.

27. The City has insurance, which insures the City against, among other things, certain potential liabilities arising out of its police officers' acts and omissions in the performance of their law enforcement duties.

28. The City's Police Department currently cooperates with federal immigration authorities, including pursuant to section 908.104, Florida Statutes, by providing communication, information sharing, and support functions for federal immigration enforcement on an as-needed basis.

B. Section 287(g) of the U.S. Immigration and Nationality Act

29. One of the ways that a local law enforcement agency can work with federal immigration authorities was established by Section 287(g) of the U.S. Immigration and Nationality Act, codified in 8 U.S.C. § 1357(g).

30. Titled “Performance of immigration officer functions by State officers and employees,” 8 U.S.C. § 1357(g) permits the delegation of certain immigration enforcement functions to state and local law enforcement agencies.

31. As relevant here, section 1357 authorizes the United States Attorney General “to enter into a written agreement” with a State or State subdivision, pursuant to which local law enforcement officers “may” carry out functions of an immigration officer “in relation to the investigation, apprehension, or detention of aliens in the United States . . . at the expense of the State or political subdivision and to the extent consistent with State and local law. 8 U.S.C. § 1357(g)(1).

32. These written agreements are commonly referred to as 287(g) agreements; and the programs developed under this statutory grant of authority are commonly referred to as 287(g) programs.

33. 287(g) agreements are expressly voluntary, with the governing statute specifying that “Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.” 8 U.S.C. § 1357(g)(9).

34. Moreover, 8 U.S.C. § 1357 expressly provides that a 287(g) agreement is *not required* for local governments to share information or otherwise cooperate with federal immigration authorities:

(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or a political subdivision of a State—

(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

(B) to otherwise cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.”¹

8 U.S.C. § 1357(g)(10)(A)-(B).

35. Since 287(g)’s enactment, ICE has offered various standardized “models” of 287(g) programs. Although no provision of law specifies which models or types of 287(g) agreements may be entered into, the models publicized and offered by ICE have changed from year to year or administration to administration.

36. Currently ICE offers three types, or models, of 287(g) agreements: (1) the Warrant Service Officer model; (2) the Jail Enforcement model; and (3) the Task Force model.

37. Each model provides different benefits to ICE, designates different authorized functions to local law enforcement agencies, and requires different levels of training, expense, and commitment for participating local law enforcement agencies.

38. These models each have different resource and oversight requirements, which help determine which model, if any, is the best fit for any particular local government.

¹ Despite Section 287(g)’s specific references to the Attorney General, in practice, 287(g) agreements are made with ICE, which is under the purview of the Department of Homeland Security.

39. The current Warrant Service Officer model authorizes “state and local law enforcement officers to execute civil immigration warrants,” and requires for participating officers an eight-hour training.²

40. The current Jail Enforcement model delegates “certain immigration authorities to state and local law enforcement agencies to identify criminal aliens and immigration violators in state and local custody and place them into immigration proceedings at the time of release from state or local custody.” Among other things, for participating officers, this program involves an initial four-week training with a one-week refresher training as needed but not more frequently than every two years.³

41. The Task Force model “serves as a force multiplier by allowing state and local law enforcement agencies to enforce limited immigration authority during routine police enforcement duties. This model allows state and local agencies to carry out immigration enforcement activities in non-custodial settings while under ICE supervision and oversight.” For participating officers, this model requires completing a 40-hour online course and having at least two years of law enforcement officer experience.^{4, 5}

42. To participate in any of these 287(g) programs, a local law enforcement agency must sign a Letter of Interest (LOI) and Memorandum of Agreement (MOA), and submit them to ICE.

² <https://www.ice.gov/doclib/about/offices/ero/287g/factsheetWSO.pdf>.

³ <https://www.ice.gov/doclib/about/offices/ero/287g/factsheetJEM.pdf>.

⁴ <https://www.ice.gov/doclib/about/offices/ero/287g/factsheetTFM.pdf>.

⁵ The Bill Analysis of Florida Senate Bill 2-C (2025), which was passed in the wake of Executive Order 14159 (discussed *infra*), and which amended Chapter 908 as described below, states there are only two program models, “the Jail Enforcement Model and the Warrant Service Officer program.” It does not mention a Task Force model. *See* <https://www.flsenate.gov/Session/Bill/2025C/2C/Analyses/2025s00002C.ap.PDF>.

43. There is a standardized MOA for each of the three models, available on ice.gov as fillable form templates.

44. Filling in the form MOA leaves no room for amending the form, but only for local law enforcement agencies to fill in information such as party names, dates, and signatures.

45. While each of the MOAs are different, they all (among other provisions):

- a. Require the local law enforcement agency to **bear certain costs and expenses**, including “the costs of participating LEA [local law enforcement agency] personnel with regard to their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.”
- b. Provide that “Participating LEA personnel will be treated as Federal employees only for purposes of the Federal Tort Claims Act . . . and worker’s compensation claims”
- c. Result in participating law enforcement officers being “considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law,” as set forth in 8 U.S.C. § 1357(g)(8), and as expressly incorporated into the MOAs for the Jail Enforcement Model and Task Force Model (providing that “participating LEA personnel performing a function on behalf of ICE authorized by this MOA will be considered acting under color of federal authority for purposes of determining liability and immunity from suit under federal or state law.”).
- d. Have **no provision** for the federal government **indemnifying the local agency** for any liability of the local agency arising out of its officers’ acts or omissions while operating under the MOA.
- e. Allows the agreement to be terminated at will by either ICE or the participating local law enforcement agency.

C. Chapter 908, Florida Statutes, as Enacted in 2019 and Amended in 2022.

46. In 2019, the Florida Legislature passed Chapter 908, Florida Statutes, titled “Federal Immigration Enforcement.”

47. Chapter 908, in language unchanged since its adoption, prohibits a state entity, law enforcement agency, or local governmental entity from adopting or having in effect a “sanctuary policy.” Fla. Stat. § 908.103 (2025).

48. When first enacted in 2019, Chapter 908 defined “sanctuary policy” as follows, specifically referencing 287(g) agreements in subsection (d) of the definition:

(6) “Sanctuary policy” means a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the 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.

§ 908.102(6), Fla. Stat. (2019) (emphasis added).

49. Despite the reference to 287(g) agreements in the definition of “sanctuary policy,” the 2019 version of Chapter 908 did not affirmatively require any entity or agency to enter into 287(g) agreements.

50. That changed in 2022, when the Florida Legislature passed various amendments to Chapter 908.

51. In the 2022 amendments, the Legislature added a new section, 908.11, which for the first time affirmatively required *certain* law enforcement agencies—specifically operators of *county* detention facilities—to enter into 287(g) agreements:

(1) By January 1, 2023, *each law enforcement agency operating a county detention facility* must enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357. This subsection does not require a law enforcement agency to participate in a particular program model.

§ 908.11, Fla. Stat. (2022) (emphasis added).

52. Simultaneously, the Legislature amended the definition of “sanctuary policy.” Commensurate with the newly enacted section 908.11, the Legislature chose to *limit* the “sanctuary policy” definition’s reference to 287(g) agreements required of *counties* by the new section 908.11:

(6) “Sanctuary policy” means a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the 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~~ as required by s. 908.11;***
- (e) Providing a federal immigration agency with an inmate’s incarceration status or release date; or
- (f) Providing information to a state entity on the immigration status of an inmate or detainee in the custody of the law enforcement agency.

§ 908.102(6)(a)-(f) (2022) (emphasis added) (additions underlined; deletions in strike-through).

53. Thus, while Chapter 908’s definition of “sanctuary policy,” as initially enacted, included action of a local government entity that prohibits entry into 287(g) agreements, in 2022 the Legislature chose to specifically *limit* that subsection’s application to 287(g) agreements “*as required by s. 908.11*” (emphasis added), i.e., the newly added provision requiring only operators of *county* detention facilities to execute 287(g) agreements.

54. The requirements and prohibitions of Chapter 908 are meant to be enforced by the Governor or Attorney General, as provided in 908.107, Florida Statutes. As enacted in 2019 (and not amended in 2022), section 908.107 stated:

(1) Any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor, in the exercise of his or her authority under the State Constitution and state law. Pursuant to s. 1(b), Art. IV of the State Constitution, the Governor may 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.

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

§ 908.107 (2019).

55. Section 908.107 further provides, in language adopted in 2019 and unchanged to this day, that “[i]f a local government entity or local law enforcement agency violates this chapter, the court must enjoin the unlawful sanctuary policy,” and that “[a]n 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 violates this chapter.” *See* § 908.107(3)-(4), Fla. Stat. (2019 & 2025).

D. President Donald Trump’s Executive Order 14159

56. On January 20, 2025, President Donald Trump signed Executive Order 14159 (“EO 14159”), titled “Protecting the American People Against Invasion.”

57. In pertinent part, EO 14159 encourages the Secretary of the Department of Homeland Security to take action to encourage state and local officials to enter into 287(g) agreements:

Sec. 11. Federal-State Agreements. To ensure State and local law enforcement agencies across the United States can assist with the protection of the American

people, the Secretary of Homeland Security shall, to the maximum extent permitted by law, and **with the consent of State or local officials** as appropriate, take appropriate action, through agreements under section 287(g) of the INA (8 U.S.C. 1357(g)) or otherwise, to authorize State and local law enforcement officials, as the Secretary of Homeland Security determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary of Homeland Security. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties. To the extent permitted by law, the Secretary of Homeland Security may structure each agreement under section 287(g) of the INA (8 U.S.C. 1357(g)) in the manner that provides the most effective model for enforcing Federal immigration laws in that jurisdiction.

EO 14159 (emphasis added).

E. Amendments to Chapter 908; the Florida Legislature’s 2025 Special Sessions.

58. Following the release of EO 14159, Governor DeSantis called for a special session of the Florida Legislature, to address various issues, including “combatting illegal immigration.”

59. In doing so, the Governor publicized a list of “proposed legislative actions” he wanted the Legislature to pursue in a special session, which included expanding the requirement to enter into 287(g) agreements, as follows:

Combatting Illegal Immigration

....

2. Cooperation with Federal Immigration Authorities

1. The 287(g) Program

1. Require each state and county law enforcement agency **and any other law enforcement agency with more than 25 sworn law enforcement officers** to participate in the 287(g) program.
 1. Require **all law enforcement agencies** to participate in every program model offered by the federal government.
 2. Empower the Governor to suspend any elected or appointed official who refuses to comply with this directive.

....

4. State and Local Law Enforcement Resources

1. Require state **and local law enforcement agencies** to ensure that at least 10 percent of their sworn law enforcement officers are available to perform or exercise the powers, privileges, or duties, of an immigration officer.

(emphasis added).⁶

60. Consistent therewith, the Governor promulgated “suggested bill language on illegal immigration enforcement,” a copy of which is attached hereto as **Exhibit 1**. The Governor proposed an amendment to Section 908.11 that, among other things, would have (1) broadened its application to all law enforcement agencies with more than 25 sworn law enforcement officers, and (2) required every law enforcement agency to participate in every program model for which it qualifies:

1103	Section 22. Section 908.11, Florida Statutes, is amended to
1104	read:
1105	908.11 Immigration enforcement assistance agreements;
1106	reporting requirement.—
1107	(1) By January 1, 2026 2023, each state and county law
1108	enforcement agency and any other law enforcement agency with
1109	more than 25 sworn law enforcement officers operating a county
1110	detention facility must enter into a written agreement with the
1111	United States Immigration and Customs Enforcement to participate
1112	in the immigration program established under s. 287(g) of the
1113	Immigration and Nationality Act, 8 U.S.C. s. 1357. Each law
1114	enforcement agency must participate in every program model
1115	offered by the United States Government for which the agency
1116	qualifies. This subsection does not require a law enforcement
1117	agency to participate in a particular program model.

61. The Governor’s suggested bill language also would have required “All state and county law enforcement agencies, and any other law enforcement agency with more than 25 sworn law enforcement officers” to “ensure at least 10 percent of their sworn law enforcement officers are available” to perform immigration enforcement.

⁶ <https://www.flgov.com/eog/legislative-special-session-proposals>.

62. On January 27, 2025, during the special session, Florida Senate Bill 14-A (2025) and Florida House Bill 11-A (2025) were proposed. The bills proposed amending section 908.11 consistent with the Governor's request. They (1) broadened 908.11's application to all law enforcement agencies with more than 25 sworn law enforcement officers, (2) required every law enforcement agency to participate in every program model for which it qualifies, and (3) would have required "All state and county law enforcement agencies, and any other law enforcement agency with more than 25 sworn or certified law enforcement officers" to "ensure at least 10 percent of their sworn and certified law enforcement officers are available" to perform immigration enforcement. A true and correct copy of Florida Senate Bill 14-A (2025) is attached hereto as **Exhibit 2** and a true and correct copy of Florida House Bill 11-A (2025) is attached hereto as **Exhibit 3**.

63. However, as reflected in remarks by the leaders of the Legislature's chambers, the Florida Legislature did not want to have its conduct dictated by the Governor, and was wary that the Governor's proposed legislation went too far in conscripting all local law enforcement agencies.

64. In rebuke of the Governor, both chambers of the Florida Legislature swiftly adjourned the Governor's special session, and instead convened their own special sessions.

65. On January 27, 2025, Florida State Senator Ben Albritton, President of the Florida Senate, made the following remarks during the Governor's convened special session:

I have closely reviewed the executive order signed by President Trump regarding illegal immigration [EO 14159]. . . . **President Trump is seeking collaboration and input from a variety of stakeholders about how the Federal Government can better serve the needs of states and local communities. Above all, he is asking to partner with state and local law enforcement to supplement, not replace, the Federal Government's responsibility to investigate, apprehend, and detain criminal illegal aliens.** The President's plans highlight the reality that immigration policy and enforcement is a federal responsibility. . . . I want to be

careful that we don't do anything to undermine President Trump's very good plan. I won't stand for that. . . . I choose to stand with President Trump and with local law enforcement. I'm not going to assume that I know better than the President of the United States and the boots on the ground, the ones who put their lives at risk every day for all Floridians. . . . President Trump asked for partnership at the state level that produces results. That's the kind of partnership I support.

As long as I have the honor to serve as your Senate President, I'm not going to sit idly by and allow anyone to ignore the Constitutional authority the people of Florida have given the Legislature to write the laws of this State. The Florida Legislature matters. Our opinions matter. Our voices matter. The Florida Constitution says so, and more importantly so do our constituents. For that reason, in a few minutes, I'll ask Rules Chair Passidomo to make a motion to adjourn sine die.

(emphasis added).⁷

66. Immediately following Senator Albritton's remarks, the Florida Senate adjourned the Governor's special session.

67. SB 14-A (2025) died in the Senate's Fiscal Policy Committee, and never made it to the floor for a vote.⁸

68. Simultaneously with these proceedings in the Florida Senate, similar proceedings occurred in the Florida House of Representatives.

69. Specifically, Speaker of the House Daniel Perez gave the following remarks:

There has been a great deal of speculation on how we will respond to this Special Session call. It has been speculated that we will be gaveling in today and gaveling out. And that is true. But, that's not the whole story. Members, this morning, President Albritton and I filed with the Secretary of State a call for a special session We will be gaveling out of Special Session A and we will immediately gavel into the Legislatively called Special Session B. . . .

President Albritton and I stated in our letter that we wanted to wait until President Trump was inaugurated. And he was. And we wanted to have the opportunity for

⁷ President Albritton's remarks can be viewed at https://www.flsenate.gov/media/VideoPlayer?EventID=1_7ochd6hm-202501271030&Redirect=true beginning at approximately 9:16.

⁸ <https://www.flsenate.gov/Session/Bill/2025A/14A/?Tab=BillHistory;>
[https://www.flsenate.gov/Session/Bill/2025A/14A/?Tab=VoteHistory.](https://www.flsenate.gov/Session/Bill/2025A/14A/?Tab=VoteHistory)

the direction on this critical issue. And he did. We carefully studied President Trump's executive orders and had conversations with the White House. . . .

There are actions that Florida must undertake now in order to quickly align with President Trump's directives. Unfortunately, the Governor's proclamation was just too narrow to accomplish all of the things that we must do to assist President Trump. We did carefully consider Governor DeSantis's proposal. And he had some good ideas. But many of his proposals were bureaucratic. **We do not need to duplicate the functions of U.S. Immigration and Customs and create a "Mini-Me" version of ICE. In addition, his proposals would hijack local law enforcement operations and, at one point, he even proposed arresting local law enforcement officers themselves. . . . We will invest more than half a billion dollars to assist local law enforcement in combatting illegal immigration without diminishing their ability to protect and serve their communities.**

(emphasis added).⁹

70. Immediately following Speaker Perez's remarks, the Florida House adjourned the Governor's special session. HB 11-A (2025) died in the House's Intergovernmental Affairs Subcommittee, where it never made it to the floor for a vote.¹⁰

71. After both chambers of the Florida Legislature adjourned the Governor's special session, they immediately convened their own special sessions.

72. The Florida Legislature would go on to convene Special Session B and Special Session C, where they considered various amendments to Chapter 908 that were not as expansive as the Governor's proposals.

73. In Special Session C, the Florida Legislature passed, and the Governor thereafter signed, Florida Senate Bill 2-C (2025), which made various other amendments to Chapter 908.

74. One such amendment was to section 908.11, but only to specify *which* operators of *county* detention facilities must enter into 287(g) agreements:

⁹ Speaker Perez's remarks can be viewed at https://www.flsenate.gov/media/VideoPlayer?EventID=1_muftpqgm-202501271030&Redirect=true beginning at approximately 9:50.

¹⁰ <https://www.flsenate.gov/Session/Bill/2025A/11A/?Tab=BillHistory>.

(1) The sheriff or the chief correctional officer ~~By January 1, 2023, each law enforcement agency~~ operating a county detention facility must enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357. The State Board of Immigration Enforcement must approve the termination of any such agreement. This subsection does not require a sheriff or chief correctional officer operating a county detention facility ~~law enforcement agency~~ to participate in a particular program model.

§ 908.11(1) (2025) (additions underlined; deletions in strike-through).

75. No amendments were made requiring any municipal agencies or officers to enter into 287(g) agreements.

76. The 2025 amendments also added subsections (g) and (h) to the definition of “sanctuary policy,” making the definition include a policy that would limit or prohibit a law enforcement agency from:

(g) Executing a lawful judicial warrant; or

(h) Participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law.

§ 908.102(6)(g)-(h) (2025).

77. The Legislature left unchanged subsection 908.102(6)(d), which still contains the limitation on the definition of “sanctuary policy” added in 2022: “Participating in any program or agreement authorized under s. 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357 *as required by s. 908.11*” (emphasis added), i.e., the provision requiring only certain operators of *county* detention facilities to execute 287(g) agreements.

78. Thus, in 2025, despite amending section 908.11 to further specify those persons required to enter into 287(g) agreements, and despite amending the definition of “sanctuary policy,” which includes a subsection specifically referencing 287(g) agreements, the Legislature

chose not to include municipalities as part of the mandate to enter into 287(g) agreements. *See* §§ 908.102(6) & 908.11, Fla. Stat. (2025).¹¹

79. The Legislature specifically chose not to include municipalities as part of the mandate, as the Governor had asked the Legislature to include and as was previously proposed in the ill-fated SB 14-A (2025) and HB 11-A (2025).

80. Finally, as relevant here, the 2025 amendments to Chapter 908 purported to expand the Governor’s enforcement powers by enabling the Governor to *suspend a municipal officer from office* for violating “his or her duties” under Chapter 908:

(1) Any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor, including potential suspension from office, in the exercise of his or her authority under the State Constitution and state law. Pursuant to s. 1(b), Art. IV of the State Constitution, the Governor may 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.

81. § 908.107(1), Fla. Stat. (2025) (additions underlined).

F. Governor DeSantis, Attorney General Uthmeier, and their Surrogates’ Political Pressure Upon Local Law Enforcement Agencies to Enter Into 287(g) Agreements

82. On February 21, 2025, the Executive Director of the Florida Police Chiefs Association (FPCA) sent an e-mail to the FPCA’s members, including South Miami Chief of Police Reo Hatfield. The FPCA e-mail encouraged its members to review bill analyses of SB 2-C (2025) and SB 4-C (2025) and “share as appropriate with your city manager/mayor and general counsel for your department and/or municipality.” The e-mail was captioned “Green Alert.”

¹¹ The Bill Analysis of Florida Senate Bill 2-C (2025) makes no mention of any new requirement directing municipalities to enter into a 287(g) agreement. <https://www.flsenate.gov/Session/Bill/2025C/2C/Analyses/2025s00002C.ap.PDF>.

83. The e-mail further explained that Larry Keefe, recently appointed as the Executive Director of the State Board of Immigration (an entity created by the 2025 amendments to Chapter 908), has provided the FPCA “with a template MOA for departments to review and consider regarding participation in in 287(g) programs.” The e-mail concludes:

Director Keefe is seeking participation from as many municipalities as possible, as soon as possible. Please review the attached MOA and secondary guidance on how to transmit directly to ICE will be forthcoming. If you know you will be executing an MOA, please advise FPCA by email at jpritt@fpca.com.

84. The template MOA attached to the e-mail, which Director Keefe has provided to the FPCA and is encouraging municipalities such as South Miami to adopt, is the 287(g) Task Force model—the same template for which a link is provided on ICE’s website, at <https://www.ice.gov/identify-and-arrest/287g>. A true and correct copy of the template Task Force MOA (as downloaded on March 27, 2025) is attached hereto as **Exhibit 4**.

85. As recommended by Director Keefe and the FPCA, South Miami Police Chief Hatfield forwarded the e-mail to City officials and attorneys, including the City Manager and Deputy City Manager.

86. The FPCA has sent repeated follow-up e-mails to its members, including Chief Hatfield, who in turn has forwarded the e-mails to City officials and attorneys. Over the last few months, the e-mails increased in urgency, with the more recent e-mails captioned “Red Alert.” Many of the e-mails include listings and statistics as to which agencies have executed 287(g) agreements, with the implication that future “Red Alert” e-mails may contain listings of agencies who have yet to sign 287(g) agreements.

87. One such e-mail, dated February 25, 2025, reattaches the Task Force MOA and reiterates that “Director Keefe is seeking participation from as many municipalities as possible, as soon as possible.”

88. One municipality that, like the City of South Miami, was receiving communications and recommendations to enter into the Task Force MOA, was the City of Fort Myers.

89. Consistent with the recommendations of Director Keefe and the FPCA, City of Fort Myers Chief of Police Jason Fields recommended to Fort Myers the approval of the Task Force MOA.

90. On March 17, 2025, during a regularly scheduled meeting of the Fort Myers City Council, the Council voted whether to approve the Task Force MOA.

91. The Fort Myers City Council voted 3-3, which resulted in the Task Force MOA not being approved by operation of the Fort Myers City Code, which dictated that such a tie vote results in an item failing.

92. The next day, on March 18, 2025, in response to Fort Myers' vote, Attorney General Uthmeier wrote a letter to the Fort Myers City Council stating that its failure to approve the 287(g) agreement is an "action [which] constitutes a serious and direct violation of Florida Law." A true and correct copy of this letter is attached hereto as **Exhibit 5**.

93. The Attorney General's letter cited to Chapter 908, summarizing that it "prohibits law enforcement and local government entities from adopting or having in effect any sanctuary policy." He then referred to portions of the definition of sanctuary policy, citing only to subsection (h), which discusses not prohibiting a law enforcement agency from participating in a federal immigration operation with a federal immigration agency.

94. The Attorney General's letter then states:

By **failing to approve** the Department's **287(g) agreement**, Fort Myers is *implicitly implementing a sanctuary policy*. Prohibiting city police officers from receiving the necessary federal training to adequately enforce U.S. immigration laws **not only prevents city police from enforcing current federal immigration law but effectively prevents the city police department from participating in federal immigration operations**.

Sanctuary policies are not tolerated or lawful in Florida. Immediate corrective action is required. Failure to correct the Council's actions will result in the enforcement of all applicable civil and criminal penalties, including but not limited to being held in contempt, declaratory or injunctive relief, and **removal from office by the Governor pursuant to section 908.107, Florida Statutes and the Florida Constitution.**

(emphasis added).

95. Uthmeier later posted a copy of his letter on X, the social media platform, along with the following declaration and threatening message:



Attorney General James Uthmeier
@AGJamesUthmeier



Today, I sent a letter to the Fort Myers City Council.

Sanctuary policies are illegal in Florida. Your vote last night makes you a sanctuary city.

Fix this problem or face the consequences.

96. Two days later, on March 20, 2025, Governor DeSantis posted on X a video of a discussion he participated in concerning immigration enforcement at New College of Florida.

Among the Governor's remarks were:

Under this 287(g), we've said, all jurisdictions in Florida must assist with immigration enforcement. So we have 67 counties. All 67 sheriffs have signed agreements with ICE. . . . **But we imposed a legal duty on them to do it. Same thing at the municipal level.** We're now working through getting police departments to do agreements. And if ICE doesn't want to do an agreement with one . . . then obviously, but if ICE wants to help then we're gonna do it. You saw this thing where the city council's fighting the mayor and the police chief about whether Fort Myers PD should be involved in it. **And it's not a policy question at this point whether they should be involved in it. Under our law, they must be involved in it and that will happen one way or another and we will get that done.**

(emphasis added).

97. Thereafter, on March 21, 2025—one day after Governor DeSantis made those remarks, and three days after the Attorney General’s letter—the Fort Myers City Council reconvened for a special meeting.

98. This time, in the face of the Attorney General’s and Governor’s threats, Fort Myers approved the Task Force MOA unanimously.

99. Thereafter, Attorney General Uthmeier turned his attention, and threats, to Orlando. On April 14, 2025, Attorney General Uthmeier sent a letter to Orlando Mayor Buddy Dyer regarding Orlando’s “Trust Act Policy,” asserting it is a prohibited sanctuary policy, and threatening enforcement action, including “removal” from office:

Sanctuary policies are not tolerated or lawful in Florida. Failure to abide by state law may result in the enforcement of applicable penalties, including but not limited to being held in contempt, declaratory or injunctive relief, and **removal from office by the Governor pursuant to section 908.107, Florida Statutes and the Florida Constitution.**

(emphasis added). A true and correct copy of this letter is attached hereto as **Exhibit 6**

100. Two days later, on April 16, 2025, Uthmeier appeared for an interview on Fox & Friends First, to discuss his enforcement efforts under Chapter 908. Among other things, he stated:

We’ve got the most robust legislation in the country when it comes to combatting illegal immigration and working with the federal government. And we’re not going to have any sanctuary cities or jurisdictions anywhere in the state. So, **we’ve made clear to local governments, mayors . . .** if you want to obstruct and get in the way of our local law enforcement and their ability to work with ICE **and get the 287(g) delegation** so that you can help ICE get illegal immigrants out of this state, if you stand in the way, we’re going to hold you accountable. We can take civil action against you, **the Governor can remove you from office**, and there’s other tools at our disposal. So, a few of these jurisdictions have popped their head up saying they might not like the law, they might not want to work with us, we’ve put them on notice very quickly, and thankfully so far all have come around and they are going to enforce the law.

(Emphasis added).

101. When asked by the interviewer, “What is it about you guys and Florida that you’re able to convince people to conform, quicker?” Uthmeier responded, “We show that we mean what we say. We’re not just talk. If you’re going to break the law, we’re not going to just talk about it, we are going to hold you accountable. So, local governments, mayors, you know, you’re all on notice. We want to work together with you. We want to help to keep Florida safe.”

102. On June 9, 2025, Attorney General Uthmeier sent a letter to Broward County Sheriff Dr. Gregory Tony, threatening him and the Broward County Sheriffs’ office over public remarks made by Sheriff Tony. A true and correct copy of Uthmeier’s June 9, 2025, letter is attached hereto as **Exhibit 7**.

103. Like Uthmeier’s letters to Fort Myers and Orlando, his letter to Sheriff Tony concluded with a threat of enforcement, that included a threat of removal from office: “My office will use every tool available to ensure local officials obey Florida law and protect public safety. Penalties for failure to adhere to the obligations set forth in § 908.104(1), Florida Statutes, include declaratory and injunctive relief, being held in contempt, or removal from office by the Governor pursuant to § 908.107, Florida Statutes.”

104. On June 9, 2025, Attorney General Uthmeier published a video on X, again decrying Sheriff Tony’s remarks, as well as statements made by the mayor of Jacksonville, Florida. In this video Uthmeier states, “The choice is simple, and participation is not optional. State, county, and local officials can support and defend the United States and Florida Constitutions and the laws therein or we will find someone who will.”

G. The Present Controversy

105. As of the filing of this action, the City of South Miami has not approved entering into a 287(g) agreement.

106. Under the City's governing laws, codes, and ordinances, only the City, acting through its Commission, has authority to approve entering into a 287(g) agreement.

107. The South Miami Police Department is not a separate legal entity and does not have the independent ability to enter into a 287(g) agreement.

108. The Governor's and Attorney General's actions and statements, including overt threatened enforcement against mayors and municipalities for failing to approve entry into a 287(g) agreement and the threat of enforcement action, including removal from office, against municipalities and officials for allegedly having sanctuary policies, have placed Plaintiffs in reasonable fear of enforcement action based on South Miami's failure to approve entering into a 287(g) agreement.

109. Several material considerations bear on the City's decision whether to approve entering into a 287(g) agreement, having nothing to do with agreement or disagreement with federal immigration policy or a desire to avoid cooperation with federal immigration authorities as provided by law. These include:

- a. The increased cost for increased police functions that are ultimately the responsibility of the taxpayer.
- b. Increased potential liability of South Miami for its officers' acts and omissions while operating under color of federal authority under a 287(g) agreement.
- c. Whether any workplace injuries of officers operating under a 287(g) agreement would expose the City to competing federal and state workers' compensation claims; or whether the 287(g) agreement's requirement that federal worker's compensation law applies violates existing obligations owed by the City to its police officers who can currently file under state worker's compensation protections.
- d. The lack of any provision for indemnification from the federal government for any increased liability.

- e. Whether the City is covered by existing insurance for its officers' acts and omissions while operating under color of federal authority under a 287(g) agreement.
- f. Whether the increased responsibility or job duties given to police officers operating under a 287(g) agreement is permitted by, or exposes the City under, any existing collective bargaining agreement.

110. A material consideration for the City of South Miami and its officials is also whether the entry into such an agreement is required by law.

111. The Governor and Attorney General contend that entering into a 287(g) agreement is required by Chapter 908, Florida Statutes, and specifically that failing to approve a 287(g) agreement constitutes adopting or having in effect an unlawful "sanctuary policy," subjecting the municipality and individual municipal officers to enforcement action pursuant to section 908.107, Florida Statutes, including removal from office.

112. Plaintiffs contend that the Defendants' reading is not supported by the plain language of the statute, is refuted by the legislative history, and is contrary to an express limitation that the Legislature chose to place upon the definition of "sanctuary policy" in 2022.

113. Section 908.102(6) defines a sanctuary policy as a

a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the agency from [performing certain enumerated functions].

§ 908.102(6) (2025).

114. As an initial, general matter, the mere failure to approve the entry into a 287(g) agreement does not constitute a "policy, practice, procedure, or custom adopted or allowed" by a municipality.

115. More pointedly, Section 908.11, Florida Statutes, requires officers operating *county detention facilities* to enter into 287(g) agreements, and Chapter 908’s definition of a prohibited “sanctuary policy” correspondingly includes action of a local government entity that prohibits entry into 287(g) agreements “*as required by s. 908.11*” (emphasis added), i.e., the provision requiring only operators of county detention facilities to execute 287(g) agreements.

116. By contrast, the Legislature chose *not* to include any such requirement for municipalities to enter into a 287(g) agreement. Chapter 908 contains no requirement that municipalities enter into 287(g) agreements.

117. The Governor had explicitly asked the Legislature to extend the 287(g) mandate to municipalities, convened a special session to accomplish that purpose, and provided proposed bill language to the Legislature to accomplish that purpose.

118. SB 14-A (2025) and HB 11-A (2025) explicitly reflected the Governor’s proposals.

119. However, in adjourning the Governor’s special session and immediately thereafter convening their own special sessions, the Legislature never voted on SB 14-A (2025) or HB 11-A (2025). Rather, the Legislature considered and passed its own versions of amendments to Chapter 908, which were not as expansive as the Governor had requested.

120. The fact that the Legislature required county-level agencies to enter into 287(g) agreements shows that it knew how to require local government entities to enter into 287(g) agreements if it wanted to.

121. The fact that the Legislature had before it proposed bill language from the Governor that would have required local government entities to enter into 287(g) agreements, as well as draft bills reflecting the Governor’s preferences, shows that the Legislature faced a specific request and an explicit opportunity to require municipalities to enter into 287(g) agreements.

122. But the Legislature chose not to do so, rejecting the Governor’s proposed expansion of the requirement to municipalities, in favor of its more limited amendments, enacted in its own legislative session.

123. As compelled by applicable interpretive canons, including the principle *expressio unius est exclusio alterius*, the Legislature’s express specification that a failure to enter into a 287(g) agreement by only operators of county facilities can constitute a sanctuary policy, while failing to make any mention or requirement of municipalities, shows a contrary intention as to municipalities.

124. Further, while section 908.102(6)(h), Florida Statutes, includes within the definition of “sanctuary policy” a policy that prohibits or impedes the City from “[p]articipating in a federal immigration operation with a federal immigration agency as permitted by federal and state law,” the failure to sign a 287(g) agreement does not amount to such a policy for several reasons. First, simply not signing an agreement is not an affirmative act and does not constitute limiting or prohibiting any activity. Second, the failure to sign a 287(g) agreement cannot be impliedly read into the general statement in subsection (h), where the “sanctuary policy” definition specifically addresses the failure to sign 287(g) agreements in subsection (d) and makes that failure applicable only to counties as required by section 908.11. Finally, as the governing federal statute authorizing 287(g) agreements expressly recognizes, signing an agreement is not required for a local law enforcement agency “to communicate with [ICE] regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States”; or to “cooperate with [ICE] in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States,” broadly encompassing the range of

any potential “immigration operation” in which a local law enforcement agency might participate. *See* 8 U.S.C. 1357(g)(10)(A)-(B).

125. The Florida Legislature’s lack of intention to require municipalities to enter into 287(g) agreements is clear.

126. The Legislature made its intention clear in 2022, when it created section 908.11, requiring only operators of *county* detention facilities to sign 287(g) agreements, and correspondingly placing an express limitation on the definition of “sanctuary policy,” limiting its reference to 287(g) agreements to those “required by s. 908.11.”

127. The Legislature confirmed its intention in 2025 when it further amended Chapter 908 in a special session in the wake of EO 14159.

128. There, the Legislature made changes specifically to the definition of “sanctuary policy” and to section 908.11. The Legislature had the opportunity, if it so intended, to require municipalities to execute 287(g) agreements. But the Legislature chose not to require municipalities to enter into 287(g) agreements as it did for county-level agencies.

129. The legislature did so despite, and in rebuke of, the Governor’s public legislative proposal and suggested bill language, and the ill-fated SB 14-A (2025) and HB 11-A (2025), legislation drafted and introduced to the Florida Legislature which reflected the Governor’s public legislative proposal and suggested bill language.

130. Considering the plain text of the law and considering the legislative history, it is clear that the 287(g) mandate does not extend to municipalities, nor did the Legislature intend it to, and thus a municipality’s not entering into a 287(g) agreement cannot be considered a sanctuary policy.

131. Moreover, as to any contention that Chapter 908 requires municipalities not only to enter into a 287(g) agreement, but the Task Force Model specifically, as Defendants have contended with respect to Fort Myers, that position is undermined by the SB 2-C (2025) Bill Analysis, which ignores the very existence of the Task Force Model, discussing only two others.

132. It makes sense that the SB 2-C (2025) Bill Analysis discussed only the Jail Enforcement Model and Warrant Service Officer Model, in light of the facts that those models concern aliens in jail/correctional facilities, and the *only* persons Chapter 908 requires to execute 287(g) agreements are certain operators of “a county detention facility.” § 908.11, Fla. Stat.

133. South Miami’s position is further supported by the enabling federal legislation, which expressly provides that “[n]othing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection[.]” and that “[n]othing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or a political subdivision of a State—(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or (B) to otherwise cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.” *See* 8 U.S.C. § 1357(g)(9), (10)(A)-(B).

134. In other words, the very federal law enabling 287(g) agreements makes clear that entry into 287(g) agreement is voluntary, *and* that such agreements are not necessary for information sharing or cooperation between local law enforcement agencies and ICE.

135. Even if Chapter 908 is interpreted to mean that a failure to enter into a 287(g) agreement constitutes adopting or having in effect a sanctuary policy, then the Governor would

nevertheless be more limited in his ability to exercise his enforcement powers under section 908.107, Florida Statutes, than the Attorney General contends the law purports to allow.

136. The Governor cannot take enforcement action other than what is allowed by the plain language of section 908.107, Florida Statutes, or in excess of what is authorized by Article IV, Section 7, of the Florida Constitution. This includes:

- a. The Governor may not take any enforcement action against any individual officer on the basis of a municipality adopting or having in effect a sanctuary policy because only a “municipal officer who violates his or her duties” under Chapter 908 is subject to the Governor’s enforcement powers under section 908.107, Florida Statutes, and a municipality’s adoption or allowance of a sanctuary policy violates no duty that Chapter 908 imposes upon individual municipal officers.
- b. Section 908.107, Florida Statutes, applies only to an “executive or administrative . . . municipal officer” not an elected officer, and therefore does not authorize the Governor to take enforcement action, including suspension or removal, against a local elected officer.
- c. To the extent section 908.107, Florida Statutes, is otherwise construed to authorize the Governor to take enforcement action against municipal officers, including “in the exercise of his or her authority under the State Constitution and state law,” the Governor may nevertheless not exceed the scope of authority granted by Article IV, Section 7, of the Florida Constitution, which limits the Governor’s authority to suspension of elected municipal officers indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.
- d. Regardless of any law purporting to grant authority exceeding Article IV, Section 7, of the Florida Constitution, the Governor (i) may not suspend or remove any non-elected municipal officer from office, (ii) may not remove any elected municipal officer from office, and (iii) may not suspend any elected municipal officer from office except where an elected municipal officer has been indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.

COUNT I – DECLARATORY RELIEF

137. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 136, as if fully set forth herein.

138. This count is an action for declaratory judgment, pursuant to Section 86.011, et seq., Florida Statutes.

139. All elements necessary to support a cause of action for declaratory relief are present.

140. There is a bona fide, actual, present need for a declaration concerning South Miami's failure to enter into a 287(g) agreement.

141. The Governor and Attorney General have expressly taken the position that a municipality's entry into a 287(g) agreement is *required* by Chapter 908, Florida Statutes, and specifically that failure to approve such an agreement constitutes adopting or having in effect an unlawful "sanctuary policy," subjecting the municipality and individual municipal officers to enforcement action pursuant to section 908.107, Florida Statutes.

142. Plaintiffs contend that Governor DeSantis' and Attorney General Uthmeier's interpretation is not supported by the plain language of Chapter 908, including specifically that the City of South Miami is not obligated by law to execute a 287(g) agreement.

143. Plaintiffs contend that Governor DeSantis' and Attorney General Uthmeier's interpretation is contrary to an express limitation the Legislature chose to place upon the statutory definition of "sanctuary policy" in 2022, and chose to leave in place in 2025.

144. The declaration sought deals with a present controversy as to an ascertainable set of facts.

145. Plaintiffs' rights and privileges are dependent upon the law applicable to the facts.

146. The City of South Miami, the Mayor, the Governor, and the Attorney General have an actual, present, adverse, and antagonistic interest in the subject matter of this Complaint.

147. The antagonistic and adverse interests are all before this Court.

148. The relief sought is not merely the giving of legal advice or providing the answer to a question propounded from curiosity, but stems from an actual controversy.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor, and that this Court enter the following declarations and grant any such other and further relief as this Court deems just and proper:

- (1) The City of South Miami is not obligated to enter into a 287(g) agreement;
- (2) Not executing a 287(g) agreement does not constitute adopting or having in effect a sanctuary policy, as defined in section 908.102(6), Florida Statutes, in violation of section 908.103, Florida Statutes.

COUNT II – DECLARATORY RELIEF

149. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 136, as if fully set forth herein.

150. This count is an action for declaratory judgment, pursuant to Section 86.011, et seq., Florida Statutes.

151. All elements necessary to support a cause of action for declaratory relief are present.

152. In the event the Court declares South Miami is required under Chapter 908, Florida Statutes, to enter into a 287(g) agreement, there is a bona fide, actual, present need for a declaration concerning the Governor's enforcement authority pursuant to section 908.107, Florida statutes.

153. The Governor and Attorney General have expressly taken the position that a municipality's entry into a 287(g) agreement is *required* by Chapter 908, Florida Statutes, and specifically that failure to approve such an agreement constitutes adopting or having in effect an unlawful "sanctuary policy," subjecting the municipality and individual municipal officers to

enforcement action pursuant to section 908.107, Florida Statutes, which in the Defendants view includes the ability to remove municipal officials from office.

154. Governor DeSantis and Attorney General Uthmeier have in fact threatened to use their enforcement powers against municipalities and municipal officers, including a claimed power of removal from office, in an effort to coerce municipalities into approving the entry into 287(g) agreements, and have already successfully coerced one municipality into signing an MOA (and likely others among those that have already executed agreements) under threat of enforcement action based on Defendants' interpretation of Chapter 908.

155. Plaintiffs contend that Governor DeSantis's and Attorney General Uthmeier's interpretation of Chapter 908 is not supported by the plain language of Chapter 908, including specifically that even if the City fails to approve entering into a 287(g) agreement, the Governor's enforcement powers are more limited than the Governor contends.

156. Plaintiffs contend that Governor DeSantis' and Attorney General Uthmeier's interpretation of Chapter 908, if correct, would make certain applications of section 908.107 invalidly exceed the limits the Florida Constitution places upon the Governor's authority to take enforcement action against municipal officers.

157. The declaration sought deals with a present controversy as to an ascertainable set of facts.

158. Plaintiffs' rights and privileges are dependent upon the law applicable to the facts.

159. The City of South Miami, the Mayor, the Governor, and the Attorney General have an actual, present, adverse, and antagonistic interest in the subject matter of this Complaint.

160. The antagonistic and adverse interests are all before this Court.

161. The relief sought is not merely the giving of legal advice or providing the answer to a question propounded from curiosity, but stems from an actual controversy.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor, and that this Court enter the following declarations and grant any such other and further relief as this Court deems just and proper:

If under Chapter 908, Florida Statutes, the failure to execute a 287(g) agreement constitutes adopting or having in effect a sanctuary policy in violation of section 908.103, Florida Statutes, then, nevertheless, the Governor cannot take enforcement action other than what is allowed by the plain language of section 908.107, Florida Statutes, or in excess of what is authorized by Article IV, Section 7, of the Florida Constitution. This includes:

- a. The Governor may not take any enforcement action against any individual officer on the basis of a municipality adopting or having in effect a sanctuary policy because only a “municipal officer who violates his or her duties” under Chapter 908 is subject to the Governor’s enforcement powers under section 908.107, Florida Statutes, and a municipality’s adoption or allowance of a sanctuary policy violates no duty that Chapter 908 imposes upon individual municipal officers.
- b. Section 908.107, Florida Statutes, applies only to an “executive or administrative . . . municipal officer” not an elected officer, and therefore does not authorize the Governor to take enforcement action, including suspension or removal, against a local elected officer.
- c. To the extent section 908.107, Florida Statutes, is otherwise construed to authorize the Governor to take enforcement action against municipal officers, including “in the exercise of his or her authority under the State Constitution and state law,” the Governor may nevertheless not exceed the scope of authority granted by Article IV, Section 7, of the Florida Constitution, which limits the Governor’s authority to suspension of elected municipal officers indicted for crime. Any construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.
- d. Regardless of any law purporting to grant authority exceeding Article IV, Section 7, of the Florida Constitution, the Governor (i) may not suspend or remove any non-elected municipal officer from office, (ii) may not remove any elected municipal officer from office, and (iii) may not suspend any elected municipal officer from office except where an elected municipal officer has been indicted for crime. Any

construction of section 908.17, Florida Statutes, to the contrary would be invalid under the Florida Constitution.

CERTIFICATE OF SERVICE

I certify that a copy of this document is being served by e-mail via the Florida Courts E-Filing Portal on June 13, 2025, upon all counsel associated with the e-service list for this action and/or those listed below.

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Exhibit 1

Immigration

1 A bill to be entitled
2 An act relating to immigration; amending s. 20.60,
3 F.S.; establishing the Office of Secure Florida;
4 creating responsibilities for the Office of Secure
5 Florida; amending s. 97.051, F.S.; revising the oath
6 taken by a person registering to vote; amending s.
7 104.011, F.S.; providing criminal penalties for
8 unauthorized aliens who commit certain crimes related
9 to voting or elections or persons with such knowledge;
10 amending s. 104.15, F.S.; providing criminal penalties
11 for unauthorized aliens who willfully vote and persons
12 who aid or solicit such persons; amending s. 560.208,
13 F.S.; prohibiting the initiation of a foreign
14 remittance transfer by an unauthorized alien; defining
15 "foreign remittance transfer"; authorizing the
16 Department of Financial Services to adopt implementing
17 rules; providing for procedure and penalties; amending
18 s. 560.211, F.S.; requiring the retention of certain
19 records; creating s. 560.2115, F.S.; authorizing the
20 Department of Financial Services to request records
21 used to verify senders of foreign remittance transfers;
22 authorizing the Department of Financial Services to
23 conduct audits of licensees to ensure compliance;
24 amending s. 768.28, F.S.; providing immunity from
25 liability and indemnification for enforcement actions;
26 amending s. 775.0848, F.S.; requiring reclassification
27 of the penalty for the commission of a misdemeanor
28 committed by a person who has a previous specified
29 conviction; creating s. 775.10, F.S.; creating a civil

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30 cause of action against any person who knowingly and
31 willfully aided or assisted an alien in illegally
32 entering this state; creating an affirmative defense
33 under certain circumstances; creating s. 811.10, F.S.;
34 defining the terms "alien" and "removal"; creating s.
35 811.20, F.S.; providing criminal penalties for the
36 illegal entry into this state by a person who is an
37 alien; providing exceptions; creating an affirmative
38 defense to prosecution under certain circumstances;
39 requiring the pretrial detention of an alien arrested
40 for illegal entry into this state; requiring the
41 arresting law enforcement agency to notify certain
42 federal and state law enforcement agencies; providing
43 for procedure; authorizing the Florida Department of
44 Law Enforcement to adopt implementing rules; creating
45 s. 811.30, F.S.; providing criminal penalties for the
46 illegal re-entry into this state by a person who is an
47 alien; requiring the pretrial detention of an alien
48 arrested for illegal re-entry into this state;
49 requiring the arresting law enforcement agency to
50 notify certain federal and state law enforcement
51 agencies; providing for procedure; authorizing the
52 Florida Department of Law Enforcement to adopt
53 implementing rules; creating s. 811.40, F.S.; providing
54 criminal penalties for the illegal aid or support to an
55 alien who illegally entered this state; providing
56 penalties; creating an affirmative defense to
57 prosecution under certain circumstances; amending s.
58 874.02; making legislative findings regarding

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transnational organized crime organization and
terrorist organizations; amending s. 874.03; redefining
"criminal gang"; adding a definition for "transnational
criminal organization"; creating s. 874.041, F.S.;
establishing an enhanced criminal penalty for crimes
committed to further or benefit a hate group, terrorist
organization, or a transnational organized crime
organization; creating s. 874.081, F.S.; establishing a
right to the forfeiture of certain property related to
a hate group's, terrorist organization's, or a
transnational criminal organization's activities;
creating s. 874.105, F.S.; establishing a new criminal
violation for directing the activities of a hate group,
terrorist group, or a transnational criminal
organization's activities; amending s. 907.041, F.S.;
creating a presumption relating to the pretrial
detention of unauthorized aliens, providing for
procedure, and allowing the defendant to rebut the
presumption that he or she is a flight risk; amending
s. 908.104, F.S.; requiring state entities, local
governmental entities, and law enforcement agencies to
support the enforcement of federal immigration law;
requiring, rather than authorizing, a law enforcement
agency to transport an alien unlawfully present in the
United States under certain circumstances; narrowing
exceptions; amending s. 908.11, F.S.; expanding law
enforcement agencies required to participate in certain
federal immigration enforcement programs by a specified
date; creating requirements and processes for such

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88 participation; authorizing the Governor to suspend any
89 law enforcement agency head who fails to comply in bad
90 faith; authorizing the Division of Emergency Management
91 to coordinate with the State Immigration Enforcement
92 Coordinator to adopt implementing rules; creating s.
93 908.13, F.S.; creating the Unauthorized Alien Transport
94 Program within the Division of Emergency Management to
95 facilitate immigration enforcement, consistent with
96 federal law; providing for a State Immigration
97 Enforcement Coordinator to oversee the State's
98 immigration enforcement activities; requiring the
99 Division of Emergency Management to support the State
100 Immigration Enforcement Coordinator as requested;
101 requiring the National and State Guard to assist the
102 State Immigration Enforcement Coordinator in the
103 implementation of the program; authorizing the Division
104 of Emergency Management to coordinate with the State
105 Immigration Enforcement Coordinator to adopt
106 implementing rules; amending s. 948.012, F.S.;
107 authorizing a defendant's probationary sentence to be
108 converted to administrative probation under certain
109 circumstances; amending s. 1009.26, F.S.; deleting
110 provisions relating to the waiver of out-of-state fees
111 for certain students; repealing Chapter 2023-03, Laws
112 of Florida; approving certain payments and reverting
113 certain unexpended balances; providing an appropriation
114 to the Division of Emergency Management for the
115 program; providing an appropriation to the Department

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of Commerce for the Office of Secure Florida; providing
for severability; providing an effective date.

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

Section 1. Subsection (3) of section 20.60, Florida
Statutes, is amended to read:

20.60 Department of Commerce; creation; powers and
duties.— (3)(a) The following divisions and offices of the
Department of Commerce are established:

1. The Division of Economic Development.
2. The Division of Community Development.
3. The Division of Workforce Services.
4. The Division of Finance and Administration.
5. The Division of Information Technology.
6. The Office of the Secretary.
7. The Office of Economic Accountability and Transparency,

which shall:

a. Oversee the department's critical objectives as
determined by the secretary and make sure that the department's
key objectives are clearly communicated to the public.

b. Organize department resources, expertise, data, and
research to focus on and solve the complex economic challenges
facing the state.

c. Provide leadership for the department's priority issues
that require integration of policy, management, and critical
objectives from multiple programs and organizations internal and
external to the department; and organize and manage external
communication on such priority issues.

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d. Promote and facilitate key department initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues.

e. Promote strategic planning for the department.

8. The Office of Secure Florida, which shall be responsible for administering and enforcing:

a. E-Verify and employment authorization compliance as set forth in s. 448.09 and s. 448.095.

b. The purchase and registration of real property in the state of Florida by foreign principals as set forth in s. 692.203 and s. 692.204.

Section 2. Section 97.051, Florida Statutes, is amended to read:

97.051 Oath upon registering.—

A person registering to vote must subscribe to the following oath: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true. I have carefully reviewed the instructions for completing the Florida Voter Registration Application and I further swear/affirm that:

1. I am a United States citizen.

2. I understand that if I have provided false information on this application I could be subject to criminal penalties for perjury, and that I may be fined, imprisoned, or (if not a U.S. citizen) deported from or refused entry to the United States."

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Section 3. Effective March 31, 2025, section 104.011, Florida Statutes, is amended to read:

104.011 False swearing; submission of false voter registration information; prosecution prohibited.—

(1) (a) A person who willfully swears or affirms falsely to any oath or affirmation, or willfully procures another person to swear or affirm falsely to an oath or affirmation, in connection with or arising out of voting or elections commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who commits a violation of paragraph (a) and is an unauthorized alien as defined in s. 908.111, or who assists another in violation of paragraph (a) and has knowledge that the registrant is an unauthorized alien as defined in s. 908.111, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) (a) A person who willfully submits any false voter registration information commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who commits a violation of paragraph (a) and is an unauthorized alien as defined in s. 908.111, or who assists another in violation of paragraph (a) and has knowledge that the registrant is an unauthorized alien as defined in s. 908.111, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person may not be charged or convicted for a violation of this section for affirming that he or she has not been convicted of a felony or that, if convicted, he or she has

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202 had voting rights restored, if such violation is alleged to have
203 occurred on or after January 8, 2019, but before July 1, 2019.

204 Section 4. Section 104.15, Florida Statutes, is amended to
205 read:

206 104.15 Unqualified electors willfully voting.—

207 (1) Whoever, knowing he or she is not a qualified elector,
208 willfully votes at any election is guilty of a felony of the
209 third degree, punishable as provided in s. 775.082, s. 775.083,
210 or s. 775.084.

211 (2) A person who commits a violation of subsection (1) and
212 is an unauthorized alien as defined in s. 908.111, or a person
213 who aids or solicits another to violate subsection (1) with
214 knowledge that such person is an unauthorized alien as defined
215 in s. 908.111, commits a felony of the second degree, punishable
216 as provided in s. 775.082, s. 775.083, or s. 775.084.

217 Section 5. Effective March 31, 2025, subsection (7) is
218 added to section 560.208, Florida Statutes, to read:

219 (7) (a) Shall not initiate a foreign remittance transfer
220 unless the licensee has verified that the sender is not an
221 unauthorized alien as defined in s. 908.111. For purposes of
222 this section, "foreign remittance transfer" means a remittance
223 transfer as defined in the Electronic Fund Transfer Act, 15
224 U.S.C. s. 1693o-1, as amended from time to time, the recipient
225 of which is located in any country other than the United States.
226 The Department of Financial Services shall adopt rules relating
227 to acceptable forms of documentation that a licensee shall use
228 to verify that the sender of a foreign remittance transfer is
229 not an unauthorized alien. The licensee shall provide
230 confirmation of verification on such forms as the department may

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231 prescribe for this purpose. All required forms shall be
232 submitted to the department not later than the fifteenth day of
233 the month following the close of each calendar quarter.

234 (b) Shall pay a penalty equal to twenty five percent (25%)
235 of the United States dollar amount transferred, excluding any
236 fees or charges imposed by the licensee, for any foreign
237 remittance transfer initiated in violation of paragraph (7) (a).
238 The licensee shall remit penalties owed under this paragraph
239 quarterly to the department on such forms as the department may
240 prescribe for such purpose. All required forms and penalties
241 shall be submitted to the department not later than the
242 fifteenth day of the month following the close of each calendar
243 quarter. The department shall deposit penalties collected
244 pursuant to this paragraph in the Emergency Preparedness and
245 Response Fund under s. 252.3711. Notwithstanding any other
246 provision of this chapter, failure to comply with paragraph
247 (7) (a) shall not subject a licensee to any penalty other than
248 the penalty imposed by this paragraph.

249 Section 6. Effective March 31, 2025, subsection (1) of
250 section 560.211, Florida Statutes, is amended to read:

251 560.211 Required records.—

252 (1) In addition to the record retention requirements under
253 s. 560.1105, each licensee under this part must make, keep, and
254 preserve the following books, accounts, records, and documents
255 for 5 years:

256 (a) A daily record of payment instruments sold and of
257 currency, monetary value, payment instruments, or virtual
258 currency transmitted.

259 (b) A general ledger containing all asset, liability,

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capital, income, and expense accounts, which shall be posted at least monthly.

(c) Daily settlement records received from authorized vendors.

(d) Monthly financial institution statements and reconciliation records.

(e) Records of outstanding payment instruments and of currency, monetary value, payment instruments, or virtual currency transmitted.

(f) Records of each payment instrument paid and of currency, monetary value, payment instruments, or virtual currency transmitted.

(g) A list of the names and addresses of all of the licensee's authorized vendors.

(h) Records that document the establishment, monitoring, and termination of relationships with authorized vendors and foreign affiliates.

(i) Records of:

1. The documentation used to verify that the sender of a foreign remittance transfer is not an unauthorized alien.

2. Penalties paid pursuant to s. 560.208(7)(b), including the date and amount of each foreign remittance transfer and the name, date of birth, and address of each sender.

~~(i)~~ (j) Any additional records, as prescribed by rule, designed to detect and prevent money laundering.

~~(k)~~ ~~(j)~~ Any additional records, as prescribed by rule, related to virtual currency.

Section 7. Effective March 31, 2025, section 560.2115, Florida Statutes, is created to read:

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560.2115 Required records audit.—

(1) For the purpose of enforcement of this section, the department may at any time request, and a licensee must provide, records of documentation used to verify that the sender of a foreign remittance transfer is not an unauthorized alien.

(2) Any person who has a good faith belief that a licensee is failing to comply with s. 560.208(7)(a) may file a complaint with the department.

(3) A person who knowingly files a false or frivolous complaint under subsection (2), including any complaint that violates federal law, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Upon receipt of a valid complaint substantiated by evidence of a violation of s. 560.208(7)(a), the department must notify the licensee of the complaint and direct the licensee to pay a penalty pursuant to s. 560.208(7)(b).

(5) In addition to the requirements under subsection (1), beginning July 1, 2026, the department shall conduct random quarterly audits of licensees to ensure compliance with s. 560.208(7)(a). During an audit, a licensee shall produce records of the documentation used to verify that each sender of a foreign remittance transfer is not an unauthorized alien. A licensee that fails to comply with s. 560.208(7)(a) is subject to penalty pursuant to s. 560.208(7)(b).

(6) Failure to comply with paragraph (5) constitutes grounds for the suspension of all licenses issued by the department.

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316 (7) The department may not audit a licensee more than once
317 every two years unless an audit within the last six months found
318 the licensee out of compliance with s. 560.208(7)(a).

319 Section 8. Paragraph (a) of subsection (5) is amended and
320 subsection (21) is added to section 768.28, Florida Statutes, to
321 read:

322 (5) (a) Except as expressly provided in this section, tThe
323 state and its agencies and subdivisions shall be liable for tort
324 claims in the same manner and to the same extent as a private
325 individual under like circumstances, but liability shall not
326 include punitive damages or interest for the period before
327 judgment. Neither the state nor its agencies or subdivisions
328 shall be liable to pay a claim or a judgment by any one person
329 which exceeds the sum of \$200,000 or any claim or judgment, or
330 portions thereof, which, when totaled with all other claims or
331 judgments paid by the state or its agencies or subdivisions
332 arising out of the same incident or occurrence, exceeds the sum
333 of \$300,000. However, a judgment or judgments may be claimed and
334 rendered in excess of these amounts and may be settled and paid
335 pursuant to this act up to \$200,000 or \$300,000, as the case may
336 be; and that portion of the judgment that exceeds these amounts
337 may be reported to the Legislature, but may be paid in part or
338 in whole only by further act of the Legislature. Notwithstanding
339 the limited waiver of sovereign immunity provided herein, the
340 state or an agency or subdivision thereof may agree, within the
341 limits of insurance coverage provided, to settle a claim made or
342 a judgment rendered against it without further action by the
343 Legislature, but the state or agency or subdivision thereof
344 shall not be deemed to have waived any defense of sovereign

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immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the \$200,000 or \$300,000 waiver provided above. The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

(21) (a) Except as provided by subsection (d), the state, its agencies and subdivisions, and their official, employees, and contractors are immune from liability for damages arising from a cause of action under state law resulting from an action taken by any official, employee, or contractor to enforce s. 811.20, s. 811.30, s. 811.40, s. 908.104, s. 908.11, or s. 908.13 during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the state, its agencies, or its subdivisions.

(b) Except as provided by subsection (d), the state shall indemnify an elected or appointed state official or a state employee or contractor for damages arising from a cause of action under federal law resulting from an action taken by the official, employee, or contractor to enforce s. 811.20, s. 811.30, s. 811.40, s. 908.104, s. 908.11, or s. 908.13 during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the state, its agencies, or its subdivisions.

(c) Notwithstanding any other law, an indemnification payment made under subsection (b) is not subject to an

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374 indemnification limit under the laws of this state.

375 (d) Subsections (a) and (b) do not apply if the court or
376 jury determines that the state official, employee, or contractor
377 acted in bad faith, with conscious indifference, or with
378 recklessness.

379 (e) The state shall indemnify a state or local official,
380 employee, or contractor for reasonable attorney's fees incurred
381 in defense of a criminal prosecution against the official,
382 employee, or contractor for an action taken by the official,
383 employee, or contractor to enforce s. 811.20, s. 811.30,
384 s. 811.40, s. 908.104, s. 908.11, or s. 908.13 during the course
385 and scope of the official's, employee's, or contractor's office,
386 employment, or contractual performance for or service on behalf
387 of the state, its agencies, or its subdivisions.

388 (f) A state official, employee, or contractor entitled to
389 indemnification under subsection (b) is entitled to
390 representation by the attorney general in an action in
391 connection with which the official, employee, or contractor may
392 be entitled to such indemnification.

393 Section 9. Section 775.0848, Florida Statutes, is amended
394 to read:

395 775.0848 Commission of a misdemeanor or felony after
396 unlawful reentry into the United States; reclassification.—

397 A person who has been previously convicted of a crime
398 relating to the reentry of removed aliens under 8 U.S.C. s. 1326
399 shall have the penalty for committing a misdemeanor or felony
400 committed after such conviction reclassified in the following
401 manner:

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(1) A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.

(2) A misdemeanor of the first degree is reclassified to a felony of the third degree.

(3)~~(1)~~ A felony of the third degree is reclassified to a felony of the second degree.

(4)~~(2)~~ A felony of the second degree is reclassified to a felony of the first degree.

(5)~~(3)~~ A felony of the first degree is reclassified to a life felony.

Section 10. Section 775.10, Florida Statutes, is created to read:

775.10. Civil actions for victims of crimes committed by aliens.—

(1) A victim of any crime committed by an alien who illegally entered or re-entered the United States and then entered this state has a civil cause of action against any person who knowingly and willfully aided or assisted such alien in entering this state. Such victim may recover damages as provided in this section.

(a) The action may be brought in any circuit court of competent jurisdiction in this state.

(b) A victim who prevails in any such action may recover economic and noneconomic damages; punitive damages, as provided in s. 768.72, s. 768.725, and s. 768.73; reasonable attorney fees; and costs.

1. Economic damages include, but are not limited to, past and future medical and mental health expenses and all other reasonable costs and expenses incurred by the victim or

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431 estimated to be incurred by the victim in the future as a result
432 of the victim's injuries.

433 2. Noneconomic damages are nonfinancial losses that would
434 not have occurred but for the victimization, and include pain
435 and suffering, inconvenience, physical impairment, mental
436 anguish, disfigurement, loss of capacity for enjoyment of life,
437 and other nonfinancial losses.

438 (c) The civil remedies provided for in this section do not
439 preempt any other remedy or cause of action provided by law.

440 (d) The court shall have specific authority to consolidate
441 civil actions for the same defendant for the purpose of case
442 resolution and aggregate jurisdiction.

443 (2) It is an affirmative defense to a claim brought under
444 this section if:

445 (a) The person is a federal, state, or local government
446 employee working within the course and scope of his or her
447 employment and the aid or assistance provided to an alien is
448 limited to the aid or assistance authorized by the government
449 entity for which the person works; or

450 (b) The person is an agent or works for an entity under
451 contract with a federal, state, or local government to provide
452 services to persons, including aliens, and the aid or assistance
453 provided to an alien is limited to the aid or assistance
454 authorized by the government explicitly in that contract,
455 memorandum of understanding, appendix, or other written document
456 or direction.

457 (3) The statute of limitations as specified in s. 95.11(7)
458 or (9), as applicable, governs an action brought under this
459 section.

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Section 11. Section 811.10, Florida Statutes, is created to read:

811.10 Definitions.—

As used in this chapter:

(1) "Alien" has the meaning assigned by 8 U.S.C. s. 1101, as that provision existed on January 1, 2023.

(2) "Removal" means the departure from the United States of an alien after any proceeding under 8 U.S.C. ss. 1225, 1228, 1229, or 1229a or any agreement in which an alien stipulates to departure from the United States as part of a criminal proceeding under either federal or state law.

Section 12. Section 811.20, Florida Statutes, is created to read:

811.20. Illegal entry by an adult alien into this state.—

(1) (a) Any alien who is more than eighteen years of age and who knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers commits a misdemeanor of the first degree punishable as provided in s. 775.082 or s. 775.083. Such person shall be sentenced to a minimum term of imprisonment of nine months.

(b) The term of imprisonment may be waived at any time before or after conviction if the alien agrees in writing to voluntary return to the alien's country of origin or otherwise leave the United States and the alien leaves the United States.

(2) Any alien who:

(a) Is more than eighteen years of age;

(b) Knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or

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inspection by immigration officers; and

(c) Was previously convicted on one occasion of violating s. 811.20 commits a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Such person shall be sentenced to a minimum term of imprisonment of one year and one day. Any term of probation imposed in addition to the term of imprisonment may be converted by the trial court into administrative probation if the alien agrees at the time of sentencing to voluntarily return to the alien's country of origin or otherwise leave the United States and the alien leaves the United States.

(3) Any alien who:

(a) Is more than eighteen years of age;

(b) Knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers; and

(c) Was previously convicted on two or more occasions of violating s. 811.20 commits a felony of the third degree punishable as provided in s. 775.02, s. 775.083, or s. 775.084.

Such person shall be sentenced to a minimum term of imprisonment of two years. Any term of probation imposed in addition to the term of imprisonment may be converted by the trial court into administrative probation if the alien agrees at the time of sentencing to voluntarily return to the alien's country of origin or otherwise leave the United States and the alien leaves the United States.

(4) An alien shall not be subject to arrest for a violation of this section if the alien was encountered by law enforcement

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518 in this state:

519 (a) During the investigation of another crime that occurred
520 in this state and the alien witnessed or reported that crime or
521 was a victim of that crime;

522 (b) At a religious service or established place of worship
523 where the alien was worshiping; or

524 (c) At a health care facility, as defined in s.
525 381.026(2)(b), including a facility a state agency maintains or
526 operates to provide health care, or the office of a health care
527 provider, as defined in s. 381.026(2)(c), provided that the
528 alien or someone traveling with the alien was receiving medical
529 care.

530 (5) It is an affirmative defense to prosecution under this
531 section if:

532 (a) The federal government has granted the alien lawful
533 presence in the United States or discretionary relief that
534 allows the alien to remain in the United States temporarily or
535 permanently;

536 (b) The alien is subject to relief under the Cuban
537 Adjustment Act of 1966; or

538 (c) The alien's entry into the United States did not
539 constitute a violation of 8 U.S.C. s. 1325(a).

540 (6) Notwithstanding any other provision of law, and unless
541 release is otherwise required by the Florida or United States
542 Constitutions, an alien arrested for violation of this section
543 shall be detained pending disposition of the case because no
544 conditions of release can reasonably assure the presence of the
545 alien at trial.

546 (7) An alien charged with violating this section shall not

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547 be eligible for any civil citation or other pre-arrest or post-
548 arrest diversion program, including, but not limited to, a
549 program pursuant to s. 901.41, s. 921.00241, or other similar
550 program.

551 (8) At the time of arrest for a violation of this section,
552 the law enforcement agency making the arrest must notify:

553 (a) Immigration and Customs Enforcement of the U.S.
554 Department of Homeland Security and provide that agency
555 information relating to the alien; and

556 (b) The Florida Department of Law Enforcement and provide
557 that agency information relating to the alien, which must
558 include fingerprints, photographs, and any other biometric
559 information necessary to identify the alien in the future, and
560 the costs associated with the arrest, detention, supervision,
561 and transportation of the alien for violation of this section.

562 (9) If an alien agrees to voluntary return to the alien's
563 country of origin or otherwise leave the United States in
564 accordance with this section, the law enforcement agency with
565 custody of the alien shall be responsible, consistent with state
566 and federal law, for coordinating with the alien to arrange
567 transportation to the alien's country of destination and for
568 ensuring that the alien leaves the United States. Public funds
569 may be used to procure transportation as necessary. If the alien
570 fails to depart the United States for any reason, any term of
571 imprisonment or probation for which the alien has been sentenced
572 and which has not been served shall be reinstated. Prior to the
573 alien's departure from the United States, the court exercising
574 jurisdiction in the case shall verify in a hearing that the
575 alien consents to depart the United States, that such consent is

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576 knowing and voluntary, and that failure to depart for any reason
577 will result in reinstatement of any term of imprisonment or
578 probation for which the alien has been sentenced and which has
579 not been served. The court may issue any orders, consistent with
580 state and federal law, necessary to effectuate the alien's
581 voluntary departure from the United States.

582 (10) The Florida Department of Law Enforcement is
583 authorized to adopt rules to implement this section.

584 Section 13. Section 811.30, Florida Statutes, is created to
585 read:

586 811.30 Illegal re-entry of an adult alien.-

587 (1) Any alien who:

588 (a) Is eighteen years of age or older;

589 (b) After having been denied admission, excluded, deported,
590 or removed or having departed the United States while an order
591 of exclusion, deportation, or removal is outstanding;

592 (c) And thereafter enters, attempts to enter, or is at any
593 time found in this state, unless prior to the alien's
594 reembarkation at a place outside the United States or his or her
595 application for admission from a foreign contiguous territory:

596 1. The Attorney General of the United States expressly
597 consented to such alien's reapplying for admission; or

598 2. With respect to an alien previously denied admission and
599 removed, unless such alien establishes that the alien was not
600 required to obtain such advance consent under the Immigration
601 and Nationality Act, as amended,

602
603 commits a felony of the third degree punishable as provided in
604 s. 775.02, s. 775.083, or s. 775.084. Such alien shall be

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605 sentenced to a minimum term of imprisonment of one year and one
606 day. Any term of probation imposed in addition to the term of
607 imprisonment may be converted by the trial court into
608 administrative probation if the alien agrees at the time of
609 sentencing to voluntary return to the alien's country of origin
610 or otherwise leave the United States and the alien leaves the
611 United States.

612 (2) Notwithstanding subsection (1), in the case of any
613 alien described in such subsection (1):

614 (a) Whose arrest under subsection (1) was subsequent to a
615 conviction for commission of three or more misdemeanors or a
616 felony other than an aggravated felony as defined by federal law
617 or violent felony under Florida law, commits a felony of the
618 third degree punishable as provided in s. 775.02, s. 775.083, or
619 s. 775.084. Such person shall be sentenced to a minimum term of
620 imprisonment of two years. Any term of probation imposed in
621 addition to the term of imprisonment may be converted by the
622 trial court into administrative probation if the alien agrees at
623 the time of sentencing to voluntary return to the alien's
624 country of origin or otherwise leave the United States and the
625 alien leaves the United States.

626 (b) Whose arrest under subsection (1) was subsequent to a
627 conviction for commission of an aggravated felony as defined by
628 federal law or violent felony under Florida law commits a felony
629 of the second degree punishable as provided in s. 775.02, s.
630 775.083, or s. 775.084. Such person shall be sentenced to a
631 minimum term of imprisonment of five years. Any term of
632 probation imposed in addition to the term of imprisonment may be
633 converted by the trial court into administrative probation if

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634 the alien agrees at the time of sentencing to voluntary return
635 to the alien's country of origin or otherwise leave the United
636 States and the alien leaves the United States.

637 (3) Any sentence imposed under this section shall run
638 concurrently to the sentence imposed for any other criminal
639 conviction.

640 (4) Notwithstanding any other provision of law, and unless
641 release is otherwise required by the Florida or United States
642 Constitutions, an alien arrested for violation of this section
643 shall be detained pending disposition of the case because no
644 conditions of release can reasonably assure the presence of the
645 alien at trial.

646 (5) An alien charged with violating this section shall not
647 be eligible for any civil citation or other pre-arrest or post-
648 arrest diversion program, including, but not limited to, a
649 program pursuant to s. 901.41, s. 921.00241, or other similar
650 program.

651 (6) At the time of arrest, the law enforcement agency
652 making the arrest must notify:

653 (a) Immigration and Customs Enforcement of the U.S.
654 Department of Homeland Security and provide that agency
655 information relating to the alien; and

656 (b) The Florida Department of Law Enforcement and provide
657 that agency information relating to the alien, which must
658 include fingerprints, photographs, and any other biometric
659 information necessary to identify the alien in the future, and
660 the costs associated with the arrest, detention, supervision,
661 and transportation of the alien for violation of this section.

662 (7) If an alien agrees to voluntary return to the alien's

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country of origin or otherwise leave the United States in accordance with this section, the law enforcement agency with custody of the alien shall be responsible, consistent with state and federal law, for coordinating with the alien to arrange transportation to the alien's country of destination and for ensuring that the alien leaves the United States. Public funds may be used to procure transportation as necessary. If the alien fails to depart the United States for any reason, any term of imprisonment or probation for which the alien has been sentenced and which has not been served shall be reinstated. Prior to the alien's departure from the United States, the court exercising jurisdiction in the case shall verify in a hearing that the alien consents to depart the United States, that such consent is knowing and voluntary, and that failure to depart for any reason will result in reinstatement of any term of imprisonment or probation for which the alien has been sentenced and which has not been served. The court may issue any orders, consistent with state and federal law, necessary to effectuate the alien's voluntary departure from the United States.

(8) The Florida Department of Law Enforcement is authorized to adopt rules to implement this section.

Section 14. Section 811.40, Florida Statutes, is created to read:

811.40 Illegal aid or support to an alien.-

(1) Any person who knowingly and willfully aids or assists any alien who illegally entered or re-entered the United States and then entered this state in violation of s. 811.20 or s. 811.30, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter this state

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after illegally entering or re-entering the United States in
violation of s. 811.20 or s. 811.30, commits a felony of the
third degree punishable as provided in s. 775.02, s. 775.083, or
s. 775.084.

(2) It is an affirmative defense to prosecution under this
section if:

(a) The person is a federal, state, or local government
employee working within the course and scope of his or her
employment and the aid or assistance provided to an alien is
limited to the aid or assistance authorized by the government
entity for which the person works;

(b) The person is an agent or works for an entity under
contract with a federal, state, or local government to provide
services to persons, including aliens, and the aid or assistance
provided to an alien is limited to the aid or assistance
authorized by the government explicitly in that contract,
memorandum of understanding, appendix, or other written document
or direction.

Section 15. Section 874.02, Florida Statutes, is amended to
read:

874.02 Legislative findings and intent.—

(1) The Legislature finds that it is the right of every
person, regardless of race, color, creed, religion, national
origin, sex, age, sexual orientation, or handicap, to be secure
and protected from fear, intimidation, and physical harm caused
by the activities of criminal gangs, transnational criminal
organizations, terrorist organizations, and their members. It is
not the intent of this chapter to interfere with the exercise of
the constitutionally protected rights of freedom of expression

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721 and association. The Legislature recognizes the constitutional
722 right of every citizen to harbor and express beliefs on any
723 lawful subject whatsoever, to lawfully associate with others who
724 share similar beliefs, to petition lawfully constituted
725 authority for a redress of perceived grievances, and to
726 participate in the electoral process.

727 (2) The Legislature finds, however, that the state is
728 facing a mounting crisis caused by criminal gangs, transnational
729 criminal organizations, and terrorist organizations whose
730 members threaten and terrorize peaceful citizens and commit a
731 multitude of crimes. These criminal ~~gang~~-activities these
732 organizations engage in, both individually and collectively,
733 present a clear and present danger. Street gangs, transnational
734 criminal organizations, terrorist organizations, and hate groups
735 have evolved into increasingly sophisticated and complex
736 organized crime groups in their criminal tactics, schemes, and
737 brutality. The state has a compelling interest in preventing
738 criminal ~~gang~~-activity and halting the real and present danger
739 posed by the proliferation of such criminal organizationsgangs
740 ~~and the graduation from more primitive forms of criminal gangs~~
741 ~~to highly sophisticated criminal gangs~~. For these reasons, the
742 Legislature finds that the provisions of this chapter are
743 essential to maintain public order and safety.

744 (3) It is the intent of the Legislature to outlaw certain
745 conduct associated with the existence and proliferation of such
746 criminal organizationsgangs, provide enhanced criminal
747 penalties, and eliminate the patterns, profits, proceeds,
748 instrumentalities, and property facilitating criminal ~~gang~~
749 ~~activity~~organizations, including ~~eriminal gang~~-recruitment.

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(4) The Legislature finds that the timely reporting and exchange of criminal gang information facilitates the ability of law enforcement agencies to monitor and anticipate criminal activities of gangs and their members. Additionally, the timely and standardized reporting of such criminal gang information supports the identification of gang members via the criminal justice information system and directly contributes to law enforcement officers' safety. For these reasons, it is the intent of the Legislature to encourage state and local law enforcement agencies to facilitate the exchange of crime data information through the statewide criminal gang database as provided in s. 874.09.

Section 16. Section 874.03, Florida Statutes, is amended to read:

874.03 Definitions.—As used in this chapter:

(1) "Criminal gang" means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, ~~including, but not limited to, terrorist organizations and hate groups.~~

(a) As used in this subsection, "ongoing" means that the organization was in existence during the time period charged in a petition, information, indictment, or action for civil injunctive relief.

(b) As used in this subsection, "primary activities" means that a criminal gang spends a substantial amount of time engaged in such activity, although such activity need not be the only,

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779 or even the most important, activity in which the criminal gang
780 engages.

781 (2) "Criminal gang associate" means a person who:

782 (a) Admits to criminal gang association; or

783 (b) Meets any single defining criterion for criminal gang
784 membership described in subsection (3).

785 (3) "Criminal gang member" is a person who meets two or
786 more of the following criteria:

787 (a) Admits to criminal gang membership.

788 (b) Is identified as a criminal gang member by a parent or
789 guardian.

790 (c) Is identified as a criminal gang member by a documented
791 reliable informant.

792 (d) Adopts the style of dress of a criminal gang.

793 (e) Adopts the use of a hand sign identified as used by a
794 criminal gang.

795 (f) Has a tattoo identified as used by a criminal gang.

796 (g) Associates with one or more known criminal gang
797 members.

798 (h) Is identified as a criminal gang member by an informant
799 of previously untested reliability and such identification is
800 corroborated by independent information.

801 (i) Is identified as a criminal gang member by physical
802 evidence.

803 (j) Has been observed in the company of one or more known
804 criminal gang members four or more times. Observation in a
805 custodial setting requires a willful association. It is the
806 intent of the Legislature to allow this criterion to be used to
807 identify gang members who recruit and organize in jails,

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prisons, and other detention settings.

(k) Has authored any communication indicating responsibility for the commission of any crime by the criminal gang.

Where a single act or factual transaction satisfies the requirements of more than one of the criteria in this subsection, each of those criteria has thereby been satisfied for the purposes of the statute.

(4) "Criminal gang-related activity" means:

(a) An activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person's own standing or position within a criminal gang;

(b) An activity in which the participants are identified as criminal gang members or criminal gang associates acting individually or collectively to further any criminal purpose of a criminal gang;

(c) An activity that is identified as criminal gang activity by a documented reliable informant; or

(d) An activity that is identified as criminal gang activity by an informant of previously untested reliability and such identification is corroborated by independent information.

(5) "Electronic communication" has the meaning provided in s. 934.02 and includes, but is not limited to, photographs, video, telephone communications, text messages, facsimile, electronic mail messages as defined in s. 668.602, and instant message real-time communications with other individuals through the Internet or other means.

(6) "Hate group" means an organization whose primary

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purpose is to promote animosity, hostility, and malice against a person or persons or against the property of a person or persons because of race, religion, disability, sexual orientation, ethnicity, or national origin.

(7) "Terrorist organization" means any organized group engaged in or organized for the purpose of engaging in terrorism as defined in s. 775.30. This definition shall not be construed to prevent prosecution under this chapter of individuals acting alone.

(8) "Transnational criminal organization" refers to a group, network, or associated individuals who operate transnationally for the purpose of obtaining power, influence, or monetary or commercial gain, wholly or in part by illegal means, while advancing their activities through a pattern of crime, corruption, or violence, and while protecting their illegal activities through a transnational organizational structure and the exploitation of public corruption or transnational logistics, financial, or communication mechanisms. As utilized in this chapter transnational criminal organizations shall include, but not be limited to organizations designated or that become designated in the future under Presidential Executive Order or the United States Department of the Treasury, Office of Foreign Asset Control, including Presidential Executive Orders 12978 and 13581, the Foreign Narcotics Kingpin Designation Act, the International Emergency Economic Powers Act, or the National Emergencies Act as either a transnational criminal organization or a foreign narcotics trafficker.

Section 17. Section 874.041, Florida Statutes, is created to read:

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866 874.041 Hate group, terrorist organization, and
867 transnational criminal organization-related offenses; enhanced
868 penalties.—

869 Upon a finding by the factfinder that the defendant
870 committed the charged offense for the purpose of benefitting,
871 promoting, or furthering the interests of a hate group,
872 terrorist organization, or transnational criminal organization,
873 the penalty for any felony or misdemeanor, or any delinquent act
874 or violation of law which would be a felony or misdemeanor if
875 committed by an adult, may be enhanced. Penalty enhancement
876 affects the applicable statutory maximum penalty only. Each of
877 the findings required as a basis for such sentence shall be
878 found beyond a reasonable doubt. The enhancement will be as
879 follows:

880 (1) (a) A misdemeanor of the second degree may be punished
881 as if it were a misdemeanor of the first degree.

882 (b) A misdemeanor of the first degree may be punished as if
883 it were a felony of the third degree. For purposes of sentencing
884 under chapter 921 and determining incentive gain-time
885 eligibility under chapter 944, such offense is ranked in level 1
886 of the offense severity ranking chart. The criminal gang
887 multiplier in s. 921.0024 does not apply to misdemeanors
888 enhanced under this paragraph.

889 (2) (a) A felony of the third degree may be punished as if
890 it were a felony of the second degree.

891 (b) A felony of the second degree may be punished as if it
892 were a felony of the first degree.

893 (c) A felony of the first degree may be punished as if it
894 were a life felony.

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For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such felony offense is ranked as provided in s. 921.0022 or s. 921.0023, and without regard to the penalty enhancement in this subsection.

Section 18. Section 874.081, Florida Statutes, is created to read:

874.081 Hate group, terrorist organization, and transnational criminal organization activity; forfeiture.—

All profits, proceeds, and instrumentalities of hate group activity, terrorist organization activity, and transnational criminal organization activity and all property used or intended or attempted to be used to facilitate the criminal activity of any hate group, terrorist organization, or transnational criminal organization or of any member are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act, s. 932.704.

Section 19. Section 874.105, Florida Statutes, is created to read:

874.105 Directing the activities of a hate group, terrorist organization, or transnational criminal organization.—

Any person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises a hate group's activities, terrorist organization's activities, or transnational criminal organization's activities commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

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923 Section 20. Section 907.041, Florida Statutes, is amended
924 to read:

925 907.041 Pretrial detention and release.--

926 (5) PRETRIAL DETENTION.--

927 (f) It shall be presumed that no conditions of release will
928 secure the appearance at trial of an unauthorized alien as
929 defined in s. 908.111. If a court determines that there is
930 probable cause to believe that the defendant committed the
931 offense and the court further determines by a preponderance of
932 the evidence that the defendant is an unauthorized alien as
933 defined in s. 908.111, the state attorney, or the court on its
934 own motion, shall move for pretrial detention. The defendant may
935 rebut the presumption by demonstrating, by a preponderance of
936 the evidence, that adequate conditions of release will secure
937 the appearance of the defendant at trial.

938 (g) ~~(f)~~ When a person charged with a crime for which
939 pretrial detention could be ordered is arrested, the arresting
940 agency may detain such defendant, prior to his or her first
941 appearance hearing or prior to the filing by the state attorney
942 of a motion seeking pretrial detention, for a period not to
943 exceed 24 hours.

944 (h) ~~(g)~~ 1. If a motion for pretrial detention is required
945 under paragraph (d), the pretrial detention hearing must be held
946 within 5 days after the defendant's first appearance hearing or,
947 if there is no first appearance hearing, within 5 days after the
948 defendant's arraignment.

949 2. If a state attorney files a motion for pretrial
950 detention under paragraph (c), the pretrial detention hearing
951 must be held within 5 days after the filing of such motion.

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952 3. The defendant may request a continuance of a pretrial
953 detention hearing. No continuance shall be for longer than 5
954 days unless there are extenuating circumstances. The state
955 attorney shall be entitled to one continuance for good cause.

956 4. The defendant may be detained pending the completion of
957 the pretrial detention hearing. If a defendant is released on
958 bail pending a pretrial detention hearing under paragraph (d),
959 the court must inform the defendant that if he or she uses a
960 surety bond to meet the monetary component of pretrial release
961 and the motion for pretrial detention is subsequently granted,
962 the defendant will not be entitled to the return of the premium
963 on such surety bond.

964 (i)~~(h)~~ The state attorney has the burden of showing the
965 need for pretrial detention.

966 (j)~~(i)~~ The rules concerning admissibility of evidence in
967 criminal trials do not apply to the presentation and
968 consideration of evidence at the detention hearing. The court
969 may base an order of pretrial detention under paragraph (d)
970 solely on hearsay. Evidence secured in violation of the United
971 States Constitution or the Constitution of the State of Florida
972 shall not be admissible.

973 (k)~~(j)~~ The defendant is entitled to be represented by
974 counsel, to present witnesses and evidence, and to cross-examine
975 witnesses. No testimony by the defendant shall be admissible to
976 prove guilt at any other judicial proceeding, but such testimony
977 may be admitted in an action for perjury, based upon the
978 defendant's statements made at the pretrial detention hearing,
979 or for impeachment.

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980 (1)~~(k)~~ A party may motion for a pretrial detention order to
981 be reconsidered at any time before a defendant's trial if the
982 judge finds that information exists that was not known to the
983 party moving for reconsideration at the time of the pretrial
984 detention hearing and that such information has a material
985 bearing on determining whether there are conditions of release
986 or bail that will reasonably assure the appearance of the
987 defendant as required and the safety of any other person and the
988 community from harm.

989 (m)~~(l)~~ The pretrial detention order of the court shall be
990 based solely upon evidence produced at the hearing and shall
991 contain findings of fact and conclusions of law to support it.
992 The order shall be made either in writing or orally on the
993 record. The court shall render its findings within 24 hours of
994 the pretrial detention hearing.

995 (n)~~(m)~~ A defendant convicted at trial following the
996 issuance of a pretrial detention order shall have credited to
997 his or her sentence, if imprisonment is imposed, the time the
998 defendant was held under the order, pursuant to s. 921.161.

999 (o)~~(n)~~ The defendant shall be entitled to dissolution of
1000 the pretrial detention order whenever the court finds that a
1001 subsequent event has eliminated the basis for detention.

1002 Section 21. Section 908.104, Florida Statutes, is amended
1003 to read:

1004 908.104 Cooperation with federal immigration authorities.—

1005 (1) A law enforcement agency shall ~~use best efforts to~~
1006 support the enforcement of federal immigration law. This
1007 subsection applies to an official, representative, agent, or
1008 employee of the entity or agency only when he or she is acting

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1009 within the scope of his or her official duties or within the
1010 scope of his or her employment.

1011 (2) Except as otherwise expressly prohibited by federal
1012 law, a state entity, local governmental entity, or law
1013 enforcement agency, or an employee, an agent, or a
1014 representative of the entity or agency, may not prohibit or in
1015 any way restrict a law enforcement agency from taking any of the
1016 following actions with respect to information regarding a
1017 person's immigration status:

1018 (a) Sending the information to or requesting, receiving, or
1019 reviewing the information from a federal immigration agency for
1020 purposes of this chapter.

1021 (b) Recording and maintaining the information for purposes
1022 of this chapter.

1023 (c) Exchanging the information with a federal immigration
1024 agency or another state entity, local governmental entity, or
1025 law enforcement agency for purposes of this chapter.

1026 (d) Using the information to comply with an immigration
1027 detainer.

1028 (e) Using the information to confirm the identity of a
1029 person who is detained by a law enforcement agency.

1030 (f) Sending the applicable information obtained pursuant to
1031 enforcement of s. 448.095 to a federal immigration agency.

1032 (3)(a) For purposes of this subsection, the term
1033 "applicable criminal case" means a criminal case in which:

1034 1. The judgment requires the defendant to be confined in a
1035 secure correctional facility; and

1036 2. The judge:

1037 a. Indicates in the record under s. 908.105 that the

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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 shall ~~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 shall ~~may~~ transfer a person who is subject to

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1067 an immigration detainer and is confined in a secure correctional
1068 facility to the custody of a federal immigration agency not
1069 earlier than 12 days before his or her release date. A law
1070 enforcement agency shall obtain judicial authorization before
1071 securely transporting an alien to a point of transfer outside of
1072 this state.

1073 (5) This section does not require a state entity, local
1074 governmental entity, or law enforcement agency to provide a
1075 federal immigration agency with information related to a victim
1076 of or a witness to a criminal offense that occurred in this
1077 state and for which there is an ongoing investigation or
1078 prosecution if the victim or witness timely and in good faith
1079 responds to the entity's or agency's request for information and
1080 cooperation in the investigation or prosecution of the offense.

1081 (6) A state entity, local governmental entity, or law
1082 enforcement agency that, pursuant to subsection (5), withholds
1083 information regarding the immigration information of a victim of
1084 or witness to a criminal offense shall document the victim's or
1085 witness's cooperation in the entity's or agency's investigative
1086 records related to the offense and shall retain the records for
1087 at least 10 years for the purpose of audit, verification, or
1088 inspection by the Auditor General.

1089 (7) This section does not authorize a law enforcement
1090 agency to detain an alien unlawfully present in the United
1091 States pursuant to an immigration detainer solely because the
1092 alien witnessed or reported a crime or was a victim of a
1093 criminal offense.

1094 (8) This section does not apply to any alien unlawfully
1095 present in the United States if he or she is or has been a

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necessary witness or victim of a crime of domestic violence, rape, sexual exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping, false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion, or witness tampering for which there is an ongoing investigation or prosecution in this state.

Section 22. Section 908.11, Florida Statutes, is amended to read:

908.11 Immigration enforcement assistance agreements; reporting requirement.—

(1) By January 1, 2026 ~~2023~~, each state and county law enforcement agency and any other law enforcement agency with more than 25 sworn law enforcement officers ~~operating a county detention facility~~ must enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357. Each law enforcement agency must participate in every program model offered by the United States Government for which the agency qualifies. ~~This subsection does not require a law enforcement agency to participate in a particular program model.~~

(2) Beginning no later than March 1, 2025, ~~October 1, 2022~~, and until the law enforcement agency enters into the written agreement required under subsection (1), each law enforcement agency ~~operating a county detention facility~~ must notify the State Immigration Enforcement Coordinator Department of Law Enforcement quarterly of the status of such written agreement

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and any reason for noncompliance with this section, if applicable.

(3) If the United States Government authorizes any law enforcement officer in this state to perform or exercise the powers or privileges or duties of an immigration officer or employee under s. 103(a)(10) of the Immigration and Nationality Act, 8 U.S.C. s. 1103, the head of the law enforcement agency under whose jurisdiction the officer is serving shall provide the consent required by such section.

(4) All state and county law enforcement agencies, and any other law enforcement agency with more than 25 sworn law enforcement officers, shall ensure at least 10 percent of their sworn law enforcement officers are available to perform or exercise the powers, privileges, or duties, of an immigration officer authorized under s. 103(a)(10) of the Immigration and Nationality Act, 8 U.S.C. s. 1103. Law enforcement agencies must report compliance with this subsection to the State Immigration Enforcement Coordinator. If the federal government does not fund the training, the law enforcement agency may seek reimbursement from the Unauthorized Alien Transport Program authorized under s. 908.13 or the Emergency Preparedness and Response Fund under s. 252.3711. The agency head shall report such consent to the State Immigration Enforcement Coordinator.

(5) Any head of a law enforcement agency that, in the judgment of the Governor, fails in bad faith to comply with any provision of this section shall be subject to suspension by the Governor under s. 112.48, s. 112.51, s. 112.511 or s. 112.52.

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1151 (6) The Division of Emergency Management, in coordination
1152 with the State Immigration Enforcement Coordinator, may adopt
1153 rules to implement the provisions of this section.

1154 Section 23. Section 908.13, Florida Statutes, is created to
1155 read:

1156 908.13 Unauthorized Alien Transport Program.—

1157 (1) The Unauthorized Alien Transport Program is created
1158 within the Division of Emergency Management within the Executive
1159 Office of the Governor for the purpose of facilitating
1160 immigration enforcement consistent with federal law, including
1161 but not limited to detention, transportation, and deportation.
1162 Notwithstanding s. 287.057, the division is authorized to
1163 contract for services to implement the program.

1164 (2) The program shall be run by the State Immigration
1165 Enforcement Coordinator who shall be appointed by and serve at
1166 the pleasure of the Governor. The State Immigration Enforcement
1167 Coordinator shall be responsible for overseeing the State's
1168 immigration enforcement activities in cooperation with the
1169 federal government. The Division of Emergency Management shall
1170 provide resources, administrative support, and services to the
1171 extent requested by the State Immigration Enforcement
1172 Coordinator.

1173 (3) The National Guard and the State Guard shall, once
1174 activated by the Governor, assist the State Immigration
1175 Enforcement Coordinator in the implementation of the program.

1176 (4) The division in coordination with the State Immigration
1177 Enforcement Coordinator may adopt rules to implement the
1178 program.

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1179 (5) All payments made pursuant to Section 2 of Chapter
1180 2023-03, Laws of Florida, are deemed approved. Any unexpended
1181 balance of funds appropriated to the Division of Emergency
1182 Management under that section shall immediately revert. For the
1183 2024-2025 fiscal year, the nonrecurring sum of \$350 million from
1184 the General Revenue Fund is appropriated to the Division of
1185 Emergency Management within the Executive Office of the Governor
1186 for the Unauthorized Alien Transport Program created by this
1187 act. The unexpended balance of funds remaining on June 30, 2025
1188 shall revert and is appropriated to the Division for fiscal year
1189 2025-2026 for the same purpose.

1190 Section 24. Subsection (6) of section 948.012, Florida
1191 Statutes, is renumbered as subsection (7), and a new subsection
1192 (6) is added to that section to read:

1193 948.012 Split sentence of probation or community control
1194 and imprisonment.—

1195 (6) Effective for offenses committed on or after March 31,
1196 2025, a defendant, who is an alien as defined by s. 811.10(1),
1197 can have any term of the defendant's probationary sentence
1198 converted to administrative probation by the Department of
1199 Corrections if:

1200 (a) the U.S. Department of Homeland Security detains the
1201 defendant upon the termination of his or her sentence of
1202 imprisonment and deports the defendant; or

1203 (b) the defendant agrees to voluntary return to the
1204 defendant's country of origin or otherwise leave the United
1205 States and not return to the State of Florida unless and until
1206 the term of his or her probation expires and he or she is
1207 lawfully admitted to the United States.

Immigration

1208 (c) If the defendant agrees to voluntary return to the
1209 defendant's country of origin or otherwise leave the United
1210 States in accordance with this section, the Department of
1211 Corrections shall be responsible, consistent with state and
1212 federal law, for coordinating with the defendant to arrange
1213 transportation to the defendant's country of destination and for
1214 ensuring that the defendant leaves the United States. Public
1215 funds may be used to procure transportation as necessary. Prior
1216 to the defendant's departure from the United States, the court
1217 exercising jurisdiction in the case shall verify in a hearing
1218 that the defendant consents to depart the United States, that
1219 such consent is knowing and voluntary, and that failure to
1220 depart for any reason will result in imprisonment for any
1221 remaining term of imprisonment to the maximum term of
1222 imprisonment that could have been imposed for the offense of
1223 conviction. The court may issue any orders, consistent with
1224 state and federal law, necessary to effectuate the defendant's
1225 voluntary departure from the United States. If a defendant
1226 returns to the United States after being deported or after
1227 voluntarily returning to his or her country of destination under
1228 this section during the term of his or her probation, and
1229 without being lawfully admitted to the United States, the
1230 defendant shall be sentenced to the maximum term imprisonment
1231 for any remaining term of imprisonment that could have been
1232 imposed for the offense of conviction. Any term of imprisonment
1233 for any subsequently committed criminal offense shall run
1234 consecutively to the term of imprisonment required by this
1235 subsection.

1236 (d) The Department of Corrections is authorized to adopt

Immigration

1237 rules to implement this section.

1238 (7)~~(6)~~ If a defendant who has been sentenced to a split
1239 sentence pursuant to subsection (1) is transferred to the
1240 custody of the Department of Children and Families pursuant to
1241 part V of chapter 394, the period of probation or community
1242 control is tolled until such person is no longer in the custody
1243 of the Department of Children and Families. This subsection
1244 applies to all sentences of probation or community control which
1245 begin on or after October 1, 2014, regardless of the date of the
1246 underlying offense.

1247 Section 25. Subsection (12) of section 1009.26, Florida
1248 Statutes, is amended to read:

1249 1009.26 Fee waivers.—

1250 ~~(12)(a) A state university, a Florida College System~~
1251 ~~institution, a career center operated by a school district under~~
1252 ~~s. 1001.44, or a charter technical career center shall waive~~
1253 ~~out of state fees for students, including, but not limited to,~~
1254 ~~students who are undocumented for federal immigration purposes,~~
1255 ~~who meet the following conditions:~~

1256 ~~1. Attended a secondary school in this state for 3~~
1257 ~~consecutive years immediately before graduating from a high~~
1258 ~~school in this state;~~

1259 ~~2. Apply for enrollment in an institution of higher~~
1260 ~~education within 24 months after high school graduation; and~~

1261 ~~3. Submit an official Florida high school transcript as~~
1262 ~~evidence of attendance and graduation.~~

1263 ~~(b) Tuition and fees charged to a student who qualifies for~~
1264 ~~the out of state fee waiver under this subsection may not exceed~~
1265 ~~the tuition and fees charged to a resident student. The waiver~~

Immigration

~~is applicable for 110 percent of the required credit hours of the degree or certificate program for which the student is enrolled. Each state university, Florida College System institution, career center operated by a school district under s. 1001.44, and charter technical career center shall report to the Board of Governors and the State Board of Education, respectively, the number and value of all fee waivers granted annually under this subsection. By October 1 of each year, the Board of Governors for the state universities and the State Board of Education for Florida College System institutions, career centers operated by a school district under s. 1001.44, and charter technical career centers shall annually report for the previous academic year the percentage of resident and nonresident students enrolled systemwide.~~

~~(c) A state university student granted an out-of-state fee waiver under this subsection must be considered a nonresident student for purposes of calculating the systemwide total enrollment of nonresident students as limited by regulation of the Board of Governors. In addition, a student who is granted an out-of-state fee waiver under this subsection is not eligible for state financial aid under part III of this chapter and must not be reported as a resident for tuition purposes.~~

~~(d) A state university, a Florida College System institution, a career center operated by a school district under s. 1001.44, or a charter technical career center shall, within the nonresident student enrollment systemwide, prioritize the enrollment of a veteran who is granted an out-of-state fee waiver pursuant to the Congressman C.W. "Bill" Young Tuition~~

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1294 ~~Waiver Act over a student who is granted an out of state fee~~
1295 ~~waiver under this subsection.~~

1296 Section 26. For the 2024-2025 fiscal year, the sum of
1297 \$3,000,000 in recurring funds is appropriated from the General
1298 Revenue Fund to the Division of Emergency Management, and 12
1299 full-time equivalent positions with associated salary rate of
1300 1,150,000 are authorized for the purpose of implementing the
1301 Unauthorized Alien Transport Program created by this act.

1302 Section 27. For the 2024-2025 fiscal year, the sum of
1303 \$1,725,423 in recurring funds is appropriated from the General
1304 Revenue Fund to the Department of Commerce, and 10 full-time
1305 equivalent positions with the associated salary rate of 800,000
1306 are authorized for the purpose of implementing this act. From
1307 these funds, \$1,100,000 is appropriated in the Salaries and
1308 Benefits appropriation category, \$465,423 in the expense
1309 category, and \$150,000 in contracted services. The funds shall
1310 be utilized for the department's duties in enforcing the
1311 provisions of s. 448.09, 448.095, 692.203 and 692.204, F.S.

1312 Section 28. Chapter 2023-03, Laws of Florida is repealed.

1313 Section 29. If any provision of this act or its application
1314 to any person or circumstance is held invalid, the invalidity
1315 does not affect other provisions or applications of this act
1316 which can be given effect without the invalid provision or
1317 application, and to this end the provisions of this act are
1318 severable.

1319 Section 30. Except as otherwise expressly provided in this
1320 act, this act shall take effect upon becoming a law.

Exhibit 2

By Senator Ingoglia

11-00017-25A

202514A__

A bill to be entitled
An act relating to combatting illegal immigration;
amending s. 908.11, F.S.; requiring each state and
county law enforcement agency, and any other law
enforcement agency with more than 25 sworn or
certified law enforcement officers, to enter into a
written agreement with the United States Immigration
and Customs Enforcement to participate in a certain
immigration program; requiring participation in every
program model offered by the Federal Government for
which the law enforcement agency qualifies;
authorizing a waiver from the requirement under
certain circumstances; requiring each law enforcement
agency, by a specified date, to notify the State
Immigration Enforcement Officer quarterly of the
status of such agreement; requiring the head of the
law enforcement agency under whose jurisdiction an
officer is serving to provide the consent required by
a specified action; requiring all state and county law
enforcement agencies, and any other law enforcement
agency with more than 25 sworn or certified law
enforcement officers, to ensure at least a certain
percent of their sworn law enforcement officers are
available to perform or exercise the powers,
privileges, or duties of an immigration officer;
requiring law enforcement agencies to report
compliance to the State Immigration Enforcement
Officer; authorizing a law enforcement agency to seek
reimbursement from alternative sources if the Federal

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Government does not fund certain training; specifying that the unavailability of such funds excuses compliance with specified provisions; providing for the suspension of the head of any law enforcement agency by the Governor under certain circumstances; authorizing the Division of Emergency Management, in coordination with the State Immigration Enforcement Officer, to adopt rules; creating s. 908.13, F.S.; creating the Unauthorized Alien Transport Program within the division; specifying the purpose of the program; specifying that the program is to be run by the State Immigration Enforcement Officer; requiring the division to provide resources, administrative support, and services to the State Immigration Enforcement Officer; requiring the National Guard and the State Guard to assist the State Immigration Enforcement Officer in the implementation of the program; authorizing the division, in coordination with the State Immigration Enforcement Officer, to adopt rules; providing that all payments made pursuant to specified provisions are deemed approved; repealing chapter 2023-3, Laws of Florida, relating to the Unauthorized Alien Transport Program; providing an appropriation; providing for severability; providing an effective date.

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

Section 1. Section 908.11, Florida Statutes, is amended to

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202514A__

59 read:

60 908.11 Immigration enforcement assistance agreements;
61 reporting requirement.-

62 (1) ~~By January 1, 2023,~~ Each state and county law
63 enforcement agency, and any other law enforcement agency with
64 more than 25 sworn or certified law enforcement officers,
65 ~~operating a county detention facility~~ must enter into a written
66 agreement with the United States Immigration and Customs
67 Enforcement to participate in the immigration program
68 established under s. 287(g) of the Immigration and Nationality
69 Act, 8 U.S.C. s. 1357, and to participate in each program model
70 that is available to the agency and for which the agency
71 qualifies. A law enforcement agency may request a waiver from
72 this requirement from the State Immigration Enforcement Officer
73 for any applicable program upon showing that the agency lacks
74 the resources to participate in the program or that
75 participation in the program would otherwise undermine public
76 safety. This subsection does not require a law enforcement
77 agency to participate in a particular program model.

78 (2) Beginning no later than July 1, 2025 ~~October 1, 2022,~~
79 ~~and until the law enforcement agency enters into the written~~
80 ~~agreement required under subsection (1),~~ each law enforcement
81 agency shall ~~operating a county detention facility~~ must notify
82 the State Immigration Enforcement Officer ~~Department of Law~~
83 ~~Enforcement~~ quarterly of the status of its compliance with
84 subsection (1) ~~such written agreement~~ and any reason for
85 noncompliance with this section, if applicable.

86 (3) If the Federal Government authorizes any law
87 enforcement officer in this state to perform or exercise the

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88 powers, privileges, or duties of an immigration officer or
89 employee under s. 103(a)(10) of the Immigration and Nationality
90 Act, 8 U.S.C. s. 1103, the head of the law enforcement agency
91 under whose jurisdiction the officer is serving must provide the
92 consent required by that section. The agency head shall report
93 such consent to the State Immigration Enforcement Officer.

94 (4) All state and county law enforcement agencies, and any
95 other law enforcement agency with more than 25 sworn or
96 certified law enforcement officers, shall ensure at least 10
97 percent of their sworn and certified law enforcement officers
98 are available to perform or exercise the powers, privileges, or
99 duties of an immigration officer authorized under s. 103(a)(10)
100 of the Immigration and Nationality Act, 8 U.S.C. s. 1103, or any
101 other applicable federal law. Law enforcement agencies shall
102 report compliance with this subsection to the State Immigration
103 Enforcement Officer.

104 (5) If the Federal Government does not fund the training
105 that is required by federal law and is necessary to comply with
106 this section, the law enforcement agency may seek reimbursement,
107 subject to available funds, from the Unauthorized Alien
108 Transport Program authorized under s. 908.13 or, subject to a
109 declared state of emergency, from the Emergency Preparedness and
110 Response Fund under s. 252.3711. The unavailability of such
111 funds shall excuse compliance with this section.

112 (6) Any head of a law enforcement agency who, in the
113 judgment of the Governor, acts in bad faith and fails to comply
114 with any provision of this section is subject to suspension by
115 the Governor under s. 112.48, s. 112.51, s. 112.511, or s.
116 112.52.

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117 (7) The Division of Emergency Management, in coordination
118 with the State Immigration Enforcement Officer, may adopt rules
119 to implement this section.

120 Section 2. Section 908.13, Florida Statutes, is created to
121 read:

122 908.13 Unauthorized Alien Transport Program.—

123 (1) The Unauthorized Alien Transport Program is created
124 within the Division of Emergency Management within the Executive
125 Office of the Governor for the purpose of facilitating
126 immigration enforcement consistent with federal law, including,
127 but not limited to, detention, transportation, and deportation.
128 Notwithstanding s. 287.057, the division is authorized to
129 contract for services to implement the program.

130 (2) The program shall be run by the State Immigration
131 Enforcement Officer, who shall be appointed by and serve at the
132 pleasure of the Governor. The State Immigration Enforcement
133 Officer shall be responsible for overseeing this state's
134 immigration enforcement activities in cooperation with the
135 Federal Government. The Division of Emergency Management shall
136 provide resources, administrative support, and services to the
137 extent requested by the State Immigration Enforcement Officer.

138 (3) The National Guard and the State Guard shall, once
139 activated by the Governor, assist the State Immigration
140 Enforcement Officer in the implementation of the program.

141 (4) The division, in coordination with the State
142 Immigration Enforcement Officer, may adopt rules to implement
143 the program.

144 (5) All payments made pursuant to s. 2 of chapter 2023-3,
145 Laws of Florida, are deemed approved. Any unexpended balance of

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146 funds appropriated to the Division of Emergency Management under
147 that section must immediately revert. For the 2024-2025 fiscal
148 year, the nonrecurring sum of \$350 million from the General
149 Revenue Fund is appropriated to the Division of Emergency
150 Management within the Executive Office of the Governor for the
151 Unauthorized Alien Transport Program created by this section.
152 The unexpended balance of funds remaining on June 30, 2025,
153 shall revert and is appropriated to the division for fiscal year
154 2025-2026 for the same purpose.

155 Section 3. Chapter 2023-3, Laws of Florida, is repealed.

156 Section 4. For the 2024-2025 fiscal year, the sum of \$3
157 million in recurring funds is appropriated from the General
158 Revenue Fund to the Division of Emergency Management, and 12
159 full-time equivalent positions with associated salary rate of
160 1,150,000 are authorized, for the purpose of implementing the
161 Unauthorized Alien Transport Program created by this act.

162 Section 5. If any provision of this act or its application
163 to any person or circumstance is held invalid, the invalidity
164 does not affect other provisions or applications of this act
165 which can be given effect without the invalid provision or
166 application, and to this end the provisions of this act are
167 severable.

168 Section 6. This act shall take effect upon becoming a law.

Exhibit 3

1 A bill to be entitled
2 An act relating to combatting illegal immigration;
3 amending s. 908.11, F.S.; requiring each state and
4 county law enforcement agency, and any other law
5 enforcement agency with more than 25 sworn or
6 certified law enforcement officers, to enter into a
7 written agreement with the United States Immigration
8 and Customs Enforcement to participate in a certain
9 immigration program; requiring participation in every
10 program model offered by the Federal Government for
11 which the law enforcement agency qualifies;
12 authorizing a waiver from the requirement under
13 certain circumstances; requiring each law enforcement
14 agency, by a specified date, to notify the State
15 Immigration Enforcement Officer quarterly of the
16 status of such agreement; requiring the head of the
17 law enforcement agency under whose jurisdiction an
18 officer is serving to provide the consent required by
19 a specified action; requiring all state and county law
20 enforcement agencies, and any other law enforcement
21 agency with more than 25 sworn or certified law
22 enforcement officers, to ensure at least a certain
23 percent of their sworn law enforcement officers are
24 available to perform or exercise the powers,
25 privileges, or duties of an immigration officer;

26 requiring law enforcement agencies to report
27 compliance to the State Immigration Enforcement
28 Officer; authorizing a law enforcement agency to seek
29 reimbursement from alternative sources if the Federal
30 Government does not fund certain training; specifying
31 that the unavailability of such funds excuses
32 compliance with specified provisions; providing for
33 the suspension of the head of any law enforcement
34 agency by the Governor under certain circumstances;
35 authorizing the Division of Emergency Management, in
36 coordination with the State Immigration Enforcement
37 Officer, to adopt rules; creating s. 908.13, F.S.;
38 creating the Unauthorized Alien Transport Program
39 within the division; specifying the purpose of the
40 program; specifying that the program is to be run by
41 the State Immigration Enforcement Officer; requiring
42 the division to provide resources, administrative
43 support, and services to the State Immigration
44 Enforcement Officer; requiring the National Guard and
45 the State Guard to assist the State Immigration
46 Enforcement Officer in the implementation of the
47 program; authorizing the division, in coordination
48 with the State Immigration Enforcement Officer, to
49 adopt rules; providing that all payments made pursuant
50 to specified provisions are deemed approved; repealing

chapter 2023-3, Laws of Florida, relating to the Unauthorized Alien Transport Program; providing an appropriation; providing for severability; providing an effective date.

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

Section 1. Section 908.11, Florida Statutes, is amended to read:

908.11 Immigration enforcement assistance agreements; reporting requirement.—

(1) ~~By January 1, 2023,~~ Each state and county law enforcement agency, and any other law enforcement agency with more than 25 sworn or certified law enforcement officers, operating a county detention facility must enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357, and to participate in each program model that is available to the agency and for which the agency qualifies. A law enforcement agency may request a waiver from this requirement from the State Immigration Enforcement Officer for any applicable program upon showing that the agency lacks the resources to participate in the program or that participation in the program would otherwise undermine public

76 safety. ~~This subsection does not require a law enforcement~~
77 ~~agency to participate in a particular program model.~~

78 (2) Beginning no later than July 1, 2025 ~~October 1, 2022,~~
79 ~~and until the law enforcement agency enters into the written~~
80 ~~agreement required under subsection (1),~~ each law enforcement
81 agency shall ~~operating a county detention facility must~~ notify
82 the State Immigration Enforcement Officer ~~Department of Law~~
83 ~~Enforcement~~ quarterly of the status of its compliance with
84 subsection (1) ~~such written agreement~~ and any reason for
85 noncompliance with this section, if applicable.

86 (3) If the Federal Government authorizes any law
87 enforcement officer in this state to perform or exercise the
88 powers, privileges, or duties of an immigration officer or
89 employee under s. 103(a)(10) of the Immigration and Nationality
90 Act, 8 U.S.C. s. 1103, the head of the law enforcement agency
91 under whose jurisdiction the officer is serving must provide the
92 consent required by that section. The agency head shall report
93 such consent to the State Immigration Enforcement Officer.

94 (4) All state and county law enforcement agencies, and any
95 other law enforcement agency with more than 25 sworn or
96 certified law enforcement officers, shall ensure at least 10
97 percent of their sworn and certified law enforcement officers
98 are available to perform or exercise the powers, privileges, or
99 duties of an immigration officer authorized under s. 103(a)(10)
100 of the Immigration and Nationality Act, 8 U.S.C. s. 1103, or any

101 other applicable federal law. Law enforcement agencies shall
102 report compliance with this subsection to the State Immigration
103 Enforcement Officer.

104 (5) If the Federal Government does not fund the training
105 that is required by federal law and is necessary to comply with
106 this section, the law enforcement agency may seek reimbursement,
107 subject to available funds, from the Unauthorized Alien
108 Transport Program authorized under s. 908.13 or, subject to a
109 declared state of emergency, from the Emergency Preparedness and
110 Response Fund under s. 252.3711. The unavailability of such
111 funds shall excuse compliance with this section.

112 (6) Any head of a law enforcement agency who, in the
113 judgment of the Governor, acts in bad faith and fails to comply
114 with any provision of this section is subject to suspension by
115 the Governor under s. 112.48, s. 112.51, s. 112.511, or s.
116 112.52.

117 (7) The Division of Emergency Management, in coordination
118 with the State Immigration Enforcement Officer, may adopt rules
119 to implement this section.

120 **Section 2. Section 908.13, Florida Statutes, is created to**
121 **read:**

122 908.13 Unauthorized Alien Transport Program.—

123 (1) The Unauthorized Alien Transport Program is created
124 within the Division of Emergency Management within the Executive
125 Office of the Governor for the purpose of facilitating

126 immigration enforcement consistent with federal law, including,
127 but not limited to, detention, transportation, and deportation.
128 Notwithstanding s. 287.057, the division is authorized to
129 contract for services to implement the program.

130 (2) The program shall be run by the State Immigration
131 Enforcement Officer, who shall be appointed by and serve at the
132 pleasure of the Governor. The State Immigration Enforcement
133 Officer shall be responsible for overseeing this state's
134 immigration enforcement activities in cooperation with the
135 Federal Government. The Division of Emergency Management shall
136 provide resources, administrative support, and services to the
137 extent requested by the State Immigration Enforcement Officer.

138 (3) The National Guard and the State Guard shall, once
139 activated by the Governor, assist the State Immigration
140 Enforcement Officer in the implementation of the program.

141 (4) The division, in coordination with the State
142 Immigration Enforcement Officer, may adopt rules to implement
143 the program.

144 (5) All payments made pursuant to s. 2 of chapter 2023-3,
145 Laws of Florida, are deemed approved. Any unexpended balance of
146 funds appropriated to the Division of Emergency Management under
147 that section must immediately revert. For the 2024-2025 fiscal
148 year, the nonrecurring sum of \$350 million from the General
149 Revenue Fund is appropriated to the Division of Emergency
150 Management within the Executive Office of the Governor for the

151 Unauthorized Alien Transport Program created by this section.
152 The unexpended balance of funds remaining on June 30, 2025,
153 shall revert and is appropriated to the division for fiscal year
154 2025-2026 for the same purpose.

155 **Section 3.** Chapter 2023-3, Laws of Florida, is repealed.

156 **Section 4.** For the 2024-2025 fiscal year, the sum of \$3
157 million in recurring funds is appropriated from the General
158 Revenue Fund to the Division of Emergency Management, and 12
159 full-time equivalent positions with associated salary rate of
160 1,150,000 are authorized, for the purpose of implementing the
161 Unauthorized Alien Transport Program created by this act.

162 **Section 5.** If any provision of this act or its application
163 to any person or circumstance is held invalid, the invalidity
164 does not affect other provisions or applications of this act
165 which can be given effect without the invalid provision or
166 application, and to this end the provisions of this act are
167 severable.

168 **Section 6.** This act shall take effect upon becoming a law.

Exhibit 4

MEMORANDUM OF AGREEMENT

287(g) Task Force Model

This Memorandum of Agreement (MOA) constitutes an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the NAME OF LAW ENFORCEMENT AGENCY and STATE, pursuant to which ICE delegates to nominated, trained, and certified officers or employees of the NAME OF LAW ENFORCEMENT AGENCY and STATE (hereinafter interchangeably referred to as “Law Enforcement Agency” (LEA)), the authority to perform certain immigration enforcement functions as specified herein. The LEA represents NAME OF LAW ENFORCEMENT AGENCY and STATE in the implementation and administration of this MOA. The LEA and ICE enter into this MOA in good faith and agree to abide by the terms and conditions contained herein. The ICE and LEA points of contact for purposes of this MOA are identified in Appendix A.

I. PURPOSE

The purpose of this MOA is to set forth the terms and conditions pursuant to which selected LEA personnel (participating LEA personnel) will be nominated, trained, and thereafter be approved by ICE to perform certain functions of an immigration officer under the direction and supervision of ICE within the LEA’s jurisdiction. This MOA sets forth the scope of the immigration officer functions that DHS is authorizing the participating LEA personnel to perform. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating LEA personnel as members of the LEA. However, the exercise of the immigration enforcement authority granted under this MOA to participating LEA personnel shall occur only as provided in this MOA. This MOA also describes the complaint procedures available to members of the public regarding immigration enforcement actions taken pursuant to this agreement by participating LEA personnel.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276, authorizes the Secretary of Homeland Security, or her designee, to enter into written agreements with a State or any political subdivision of a State so that qualified officers and employees can perform certain functions of an immigration officer. This MOA constitutes such a written agreement.

III. POLICY

This MOA sets forth the scope of the immigration officer functions that DHS is authorizing the participating LEA personnel to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating LEA personnel be subject to ICE direction and supervision while performing delegated immigration officer functions pursuant to this MOA. For the purposes of this MOA, ICE officers will provide direction and supervision for participating LEA personnel only as to immigration enforcement functions as authorized in this MOA. The LEA retains supervision of all other aspects of the employment and performance of duties of participating LEA personnel.

IV. TRAINING AND ASSIGNMENTS

Before participating LEA personnel receive authorization to perform immigration officer functions granted under this MOA, they must successfully complete mandatory training on relevant administrative, legal, and operational issues tailored to the immigration enforcement functions to be performed as provided by ICE instructors and thereafter pass examinations equivalent to those given to ICE officers. The mandatory training may be made available to the LEA in both in-person and online, recorded or virtual-meeting formats, as determined by ICE. Only participating LEA personnel who are nominated, trained, certified, and authorized, as set out herein, have authority pursuant to this MOA to conduct the delegated immigration officer functions, under ICE direction and supervision, enumerated in this MOA.

Upon the LEA's agreement, participating LEA personnel performing immigration-related duties pursuant to this MOA will be assigned to various units, teams, or task forces designated by ICE.

V. DESIGNATION OF AUTHORIZED FUNCTIONS

For the purposes of this MOA, participating LEA personnel are authorized to perform the following functions pursuant to the stated authorities, subject to the limitations contained in this MOA:

- The power and authority to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States (INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1)) and to process for immigration violations those individuals who have been arrested for State or Federal criminal offenses.
- The power and authority to arrest without a warrant any alien entering or attempting to unlawfully enter the United States in the officer's presence or view, or any alien in the United States, if the officer has reason to believe the alien to be arrested is in the United States in violation of law and is likely to escape before a warrant can be obtained. INA § 287(a)(2) and 8 C.F.R. § 287.5(c)(1). Subsequent to such arrest, the arresting officer must take the alien without unnecessary delay for examination before an immigration officer having authority to examine aliens as to their right to enter or remain in the United States.
- The power to arrest without warrant for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if the officer has reason to believe the alien to be arrested is in the United States in violation of law and is likely to escape before a warrant can be obtained. INA § 287(a)(4) and 8 C.F.R. § 287.5(c)(2).
- The power to serve and execute warrants of arrest for immigration violations under INA § 287(a) and 8 C.F.R. § 287.5(c)(3).
- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)) to complete required alien processing to include fingerprinting,

photographing, and interviewing, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review.

- The power and authority to prepare charging documents (INA § 239, 8 C.F.R. § 239.1; INA § 238, 8 C.F.R. § 238.1; INA § 241(a)(5), 8 C.F.R. § 241.8; INA § 235(b)(1), 8 C.F.R. § 235.3) including the preparation of the Notice to Appear (NTA) or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors.
- The power and authority to issue immigration detainers (8 C.F.R. § 287.7) and I-213, Record of Deportable/Inadmissible Alien, for aliens in categories established by ICE supervisors.
- The power and authority to take and maintain custody of aliens arrested by ICE, or another State or local law enforcement agency on behalf of ICE. (8 C.F.R. § 287.5(c)(6))
- The power and authority to take and maintain custody of aliens arrested pursuant to the immigration laws and transport (8 C.F.R. § 287.5(c)(6)) such aliens to ICE-approved detention facilities.

VI. RESOLUTION OF LOCAL CHARGES

The LEA is expected to pursue to completion prosecution of any state or local charges that caused the alien to be taken into custody. ICE may assume custody of aliens who have been convicted of a state or local offense only after such aliens have concluded service of any sentence of incarceration. The ICE Enforcement and Removal Operations Field Office Director or designee shall assess on a case-by-case basis the appropriate actions for aliens who do not meet the above criteria based on special interests or other circumstances after processing by the LEA.

After notification to and coordination with the ICE supervisor, the alien whom participating LEA personnel have determined to be removable will be arrested on behalf of ICE by participating LEA personnel and be transported by the LEA on the same day to the relevant ICE detention office or facility.

VII. NOMINATION OF PERSONNEL

The chief officer of the LEA will nominate candidates for initial training and certification under this MOA. For each candidate, ICE may request any information necessary for a background check and to evaluate a candidate's suitability to participate in the enforcement of immigration authorities under this MOA. All candidates must be United States citizens. All candidates must have at least two years of LEA work experience. All candidates must be approved by ICE and must be able to qualify for appropriate federal security clearances and access to appropriate DHS and ICE databases/systems and associated applications.

Should a candidate not be approved, a substitute candidate may be submitted if time permits such substitution to occur without delaying the start of training. Any subsequent expansion in the number of participating LEA personnel or scheduling of additional training classes may be based

on an oral agreement of the parties but will be subject to all the requirements of this MOA.

VIII. TRAINING OF PERSONNEL

ICE will provide participating LEA personnel with the mandatory training tailored to the immigration functions to be performed. The mandatory training may be made available to the LEA in both in-person and online, recorded or virtual-meeting formats, as determined by ICE.

Training will include, among other things: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) civil rights laws; (vi) the detention of aliens; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligations under federal law, including applicable treaties or international agreements, to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating LEA personnel are trained and certified, ICE may provide additional updated training on relevant administrative, legal, and operational issues related to the performance of immigration officer functions, unless either party terminates this MOA pursuant to Section XVIII below. Local training on relevant issues will be provided on an ongoing basis by ICE supervisors or a designated team leader.

IX. CERTIFICATION AND AUTHORIZATION

ICE will certify in writing the names of those LEA personnel who successfully complete training and pass all required testing. Upon certification, ICE will provide the participating LEA personnel with a signed authorization to perform specified functions of an immigration officer for an initial period of two years from the date of the authorization. ICE will also provide a copy of the authorization to the LEA. The ICE supervisory officer, or designated team leader, will evaluate the activities of all personnel certified under this MOA.

Authorization of participating LEA personnel to act pursuant to this MOA may be revoked at any time and for any reason by ICE or the LEA. Such revocation will require notification to the other party to this MOA within 48 hours. The chief officer of the LEA and ICE will be responsible for notification of the appropriate personnel in their respective agencies. The termination of this MOA, pursuant to Section XVIII below, shall constitute revocation of all immigration enforcement authorizations delegated herein.

X. COSTS AND EXPENDITURES

Participating LEA personnel will carry out designated functions at the LEA's expense, including salaries and benefits, local transportation, and official issue material. Whether or not the LEA receives financial reimbursement for such costs through a federal grant or other funding mechanism is not material to this MOA.

ICE is responsible for the installation and maintenance of the Information Technology (IT) infrastructure. The use of the IT infrastructure and the DHS/ICE IT security policies are

defined in the Interconnection Security Agreement (ISA). The ISA is the agreement between ICE's Chief Information Security Officer and the LEA's Designated Accreditation Authority. The LEA agrees that each of its sites using an ICE-provided network access or equipment will sign the ISA, which defines the DHS ICE 4300A Sensitive System Policy and Rules of Behavior for each user granted access to the DHS network and software applications. Failure to adhere to the terms of the ISA could result in the loss of all user privileges.

The LEA is responsible for personnel expenses, including, but not limited to, salaries and benefits, local transportation, and official issue material used in the execution of the LEA's mission. ICE will provide instructors and training materials. The LEA is responsible for the salaries and benefits, including any overtime, of all its personnel being trained or performing duties under this MOA and of those personnel performing the regular functions of the participating LEA personnel while they are receiving training. ICE is responsible for the costs of the LEA personnel's travel expenses while in a training status, as authorized by the Federal Travel Regulation and the ICE Travel Handbook. These expenses include housing, per diem and all transportation costs associated with getting to and from training. ICE is responsible for the salaries and benefits of all ICE personnel, including instructors and supervisors.

The LEA is responsible for providing all administrative supplies (e.g. paper, printer toner) necessary for normal office operations. The LEA is also responsible for providing the necessary security equipment, such as handcuffs, leg restraints, etc.

XI. ICE SUPERVISION

Immigration enforcement activities conducted by participating LEA personnel will be supervised and directed by ICE. Participating LEA personnel are not authorized to perform immigration officer functions except when working under the supervision or direction of ICE.

When operating in the field, participating LEA personnel shall contact an ICE supervisor at the time of exercising the authority in this MOA, or as soon as is practicable thereafter, for guidance. The actions of participating LEA personnel will be reviewed by the ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for additional training or guidance for that specific individual.

For the purposes of this MOA, ICE officers will provide supervision of participating LEA personnel only as to immigration enforcement functions. The LEA retains supervision of all other aspects of the employment of and performance of duties by participating LEA personnel.

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating LEA personnel in exercising these authorities shall be DHS and ICE policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating LEA personnel will be expected or required to violate or otherwise fail to maintain the LEA's rules, standards, or policies, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law unless doing so would violate

federal law.

If a conflict arises between an order or direction of an ICE supervisory officer and LEA rules, standards, or policies, the conflict shall be promptly reported to ICE, and the chief officer of the LEA, or designee, when circumstances safely allow the concern to be raised. ICE and the chief officer of the LEA shall attempt to resolve the conflict.

Whenever possible, the LEA will deconflict all addresses, telephone numbers, and known or suspected identities of violators of the INA with ICE's Homeland Security Investigations or ICE's Enforcement and Removal Operations prior to taking any enforcement action. This deconfliction will, at a minimum include wants/warrants, criminal history, and a person's address, and vehicle check through TECS II or any successor system.

LEA participating personnel authorized pursuant to this MOA may be assigned and/or co-located with ICE as task force officers to assist ICE with criminal investigations.

XII. REPORTING REQUIREMENTS

The LEA will be responsible for tracking and maintaining accurate data and statistical information for their 287(g) program, including any specific tracking data requested by ICE. Upon ICE's request, such data and information shall be provided to ICE for comparison and verification with ICE's own data and statistical information, as well as for ICE's statistical reporting requirements and to assess the progress and success of the LEA's 287(g) program.

XIII. RELEASE OF INFORMATION TO THIRD PARTIES

The LEA may, at its discretion, communicate the substance of this agreement to the media and other parties expressing an interest in the law enforcement activities to be engaged in under this MOA. It is the practice of ICE to provide a copy of this MOA, only after it has been signed, to requesting media outlets; the LEA is authorized to do the same.

The LEA hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA. For releases of information to the media, the LEA must coordinate in advance of release with the ICE Office of Public Affairs, which will consult with ICE Privacy Office for approval prior to any release. The points of contact for ICE and the LEA for this purpose are identified in Appendix C. For releases of information to all other parties, the LEA must coordinate in advance of release with the FOD or the FOD's representative.

Information obtained or developed as a result of this MOA, including any documents created by the LEA that contain information developed or obtained as a result of this MOA, is under the control of ICE and shall not be disclosed unless: 1) permitted by applicable laws, regulations, or executive orders; and 2) the LEA has coordinated in advance of release with (a) the ICE Office of Public Affairs, which will consult the ICE Privacy Office for approval, prior to any release to the media, or (b) an ICE officer prior to releases to all other parties. LEA questions regarding the

applicability of this section to requests for release of information shall be directed to an ICE officer.

Nothing herein limits LEA's compliance with state public records laws regarding those records that are solely state records and not ICE records.

The points of contact for ICE and the LEA for the above purposes are identified in Appendix C.

XIV. LIABILITY AND RESPONSIBILITY

Except as otherwise noted in this MOA or allowed by federal law, and to the extent required by 8 U.S.C. § 1357(g)(7) and (8), the LEA will be responsible and bear the costs of participating LEA personnel regarding their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating LEA personnel will be treated as Federal employees for purposes of the Federal Tort Claims Act, 28 U.S.C. § 1346(b)(1), 2671-2680, and worker's compensation claims, 5 U.S.C. § 8101 et seq., when performing a function on behalf of ICE as authorized by this MOA. *See* 8 U.S.C. § 1357(g)(7); 28 U.S.C. § 2671. In addition, it is the understanding of the parties to this MOA that participating LEA personnel performing a function on behalf of ICE authorized by this MOA will be considered acting under color of federal authority for purposes of determining liability and immunity from suit under federal or state law. *See* 8 U.S.C. § 1357(g)(8).

Participating LEA personnel named as personal-capacity defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. *See* 28 C.F.R. § 50.15. Absent exceptional circumstances, such requests must be made in writing. LEA personnel who wish to submit a request for representation shall notify the local ICE Office of the Principal Legal Advisor (OPLA) field location at OPLA Address---to be completed by ICE. OPLA, through its headquarters, will assist LEA personnel with the request for representation, including the appropriate forms and instructions. Unless OPLA concludes that representation clearly is unwarranted, it will forward the request for representation, any supporting documentation, and an advisory statement opining whether: 1) the requesting individual was acting within the scope of his/her authority under 8 U.S.C. § 1357(g) and this MOA; and, 2) such representation would be in the interest of the United States, to the Director of the Constitutional and Specialized Tort Litigation Section, Civil Division, Department of Justice (DOJ). Representation is granted at the discretion of DOJ; it is not an entitlement. *See* 28 C.F.R. § 50.15.

The LEA agrees to cooperate with any federal investigation related to this MOA to the full extent of its available powers, including providing access to appropriate databases, personnel, individuals in custody and documents. Failure to do so may result in the termination of this MOA. Failure of any participating LEA employee to cooperate in any federal investigation related to this MOA may result in revocation of such individual's authority provided under this MOA. The LEA agrees to cooperate with federal personnel conducting reviews to ensure compliance with the terms of this MOA and to provide access to appropriate databases, personnel, and documents necessary to complete such compliance review. It is understood that information provided by any LEA personnel under threat of disciplinary action in an administrative investigation cannot be

used against that individual in subsequent criminal proceedings, consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967), and its progeny.

As the activities of participating LEA personnel under this MOA derive from federal authority, the participating LEA personnel will comply with federal standards relating to the Supreme Court's decision in *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny, which govern the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

The LEA and ICE are each responsible for compliance with the Privacy Act of 1974, 5 U.S.C. § 552a, DHS Privacy Act regulations, 6 C.F.R. §§ 5.20-5.36, as applicable, and related system of records notices regarding data collection and use of information under this MOA.

XV. COMPLAINT PROCEDURES

The complaint reporting and resolution procedure for allegations of misconduct by participating LEA personnel, regarding activities undertaken under the authority of this MOA, is included at Appendix B.

XVI. CIVIL RIGHTS STANDARDS

Participating LEA personnel who perform certain federal immigration enforcement functions are bound by all applicable federal civil rights statutes and regulations.

Participating LEA personnel will provide an opportunity for subjects with limited English language proficiency to request an interpreter. Qualified foreign language interpreters will be provided by the LEA as needed.

XVII. MODIFICATION OF THIS MOA

Modifications of this MOA must be proposed in writing and approved by the signatories.

XVIII. EFFECTIVE DATE, SUSPENSION, AND TERMINATION OF THIS MOA

This MOA becomes effective upon signature of both parties and will remain in effect until either party terminates or suspends the MOA. Termination by the LEA shall be provided, in writing, to the local Field Office.

In instances where serious misconduct or violations of the terms of the MOA come to the attention of ICE, the ICE Director may, upon recommendation of the Executive Associate Director for Enforcement and Removal Operations, elect to immediately suspend the MOA pending investigation of the misconduct and/or violations.

Notice of the suspension will be provided to the LEA, and the notice will include, at a minimum, (1) an overview of the reason(s) that ICE is suspending the 287(g) agreement, (2) the length of the temporary suspension, and (3) how the LEA can provide ICE with information regarding the alleged

misconduct and/or violations, as well as any corrective measures it has undertaken.

ICE shall provide the LEA with a reasonable opportunity to respond to the alleged misconduct and/or violations and to take actions to implement corrective measures (e.g., replace the officer(s) who are the focus of the allegations). ICE will provide the LEA timely notice of a suspension being extended or vacated.

If the LEA is working to take corrective measures, ICE will generally not terminate an agreement. The termination of an agreement is generally reserved for instances involving problems that are unresolvable and detrimental to the 287(g) Program.

If ICE decides to move from suspension to termination, ICE will provide the LEA a 90-day notice in advance of the partnership being terminated. The notice will include, at a minimum: (1) An overview of the reason(s) that ICE seeks to terminate the 287(g) agreement; (2) All available data on the total number of aliens identified under the 287(g) agreement; and (3) Examples of egregious criminal aliens identified under the 287(g) agreement. ICE's decision to terminate a MOA will be published on ICE's website 90 days in advance of the MOA's termination.

This MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOA, each party represents it is fully authorized to enter into this MOA, accepts the terms, responsibilities, obligations, and limitations of this MOA, and agrees to be bound thereto to the fullest extent allowed by law.

For the LEA:

Date: _____

Signature: _____

Name: NAME OF SIGNATORY

Title: Title of Signatory

Agency: NAME OF LAW ENFORCEMENT AGENCY and STATE

For ICE:

Date: _____

Signature: _____

Name: _____

Title: _____

Agency: Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

Department of Homeland Security

APPENDIX A

POINTS OF CONTACT

The ICE and LEA points of contact for purposes of implementation of this MOA are:

For ICE: Department of Homeland Security
Immigration and Customs Enforcement
Enforcement and Removal Operations
Assistant Director for Enforcement
Washington DC

For the LEA: **POC Name** _____
Title _____
Phone Number _____
Address _____
Email _____

APPENDIX B

COMPLAINT PROCEDURE

This MOA is an agreement between ICE and the NAME OF LAW ENFORCEMENT AGENCY and STATE, hereinafter referred to as the “Law Enforcement Agency” (LEA), in which selected LEA personnel are authorized to perform immigration enforcement duties in specific situations under federal authority. As such, the training, supervision, and performance of participating LEA personnel pursuant to the MOA, as well as the protections for individuals’ civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOA have agreed to follow.

If any participating LEA personnel are the subject of a complaint or allegation involving the violation of the terms of this MOA the LEA shall, to the extent allowed by state law, make timely notification to ICE.

Further, if the LEA is aware of a complaint or allegation of any sort that may result in that individual receiving professional discipline or becoming the subject of a criminal investigation or civil lawsuit, the LEA shall remove the designated LEA personnel from the program, until such time that the LEA has adjudicated the allegation.

The LEA will handle complaints filed against LEA personnel who are not designated and certified pursuant to this MOA but are acting in immigration functions in violation of this MOA. Any such complaints regarding non-designated LEA personnel acting in immigration functions must be forwarded to the ICE Office of Professional Responsibility (OPR) at ICEOPRIntake@ice.dhs.gov.

1. Complaint Reporting Procedures

Complaint reporting procedures shall be disseminated as appropriate by the LEA within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that individuals are aware of the availability of such procedures. Complaints will be accepted from any source (e.g., ICE, LEA, participating LEA personnel, inmates, and the public).

Complaints may be reported to federal authorities as follows:

- A. Telephonically to the ICE OPR at the toll-free number 1-833-4ICE-OPR; or
- B. Via email at ICEOPRIntake@ice.dhs.gov.

Complaints may also be referred to and accepted by any of the following LEA entities:

- A. The LEA Internal Affairs Division; or
- B. The supervisor of any participating LEA personnel.

2. Review of Complaints

All complaints (written or oral) reported to the LEA directly, which involve activities connected to immigration enforcement activities authorized under this MOA, will be reported to the ICE OPR. The ICE OPR will verify participating personnel status under the MOA with the assistance of ICE. Complaints received by any ICE entity will be reported directly to the ICE OPR as per existing ICE policies and procedures.

In all instances, the ICE OPR, as appropriate, will make an initial determination regarding DHS investigative jurisdiction and refer the complaint to the appropriate office for action as soon as possible, given the nature of the complaint.

Complaints reported directly to the ICE OPR will be shared with the LEA's Internal Affairs Division when the complaint involves LEA personnel. Both offices will then coordinate appropriate investigative jurisdiction, which may include initiation of a joint investigation to resolve the issue(s).

3. Complaint Resolution Procedures

Upon receipt of any complaint the ICE OPR will undertake a complete review of each complaint in accordance with existing ICE allegation criteria and reporting requirements. As stated above the ICE OPR will adhere to existing ICE reporting requirements as they relate to the DHS OIG and/or another legally required entity. Complaints will be resolved using the existing procedures, supplemented as follows:

A. Referral of Complaints to LEA Internal Affairs Division.

The ICE OPR will refer complaints, as appropriate, involving LEA personnel to the LEA's Internal Affairs Division for resolution. The Internal Affairs Division Commander will inform ICE OPR of the disposition and resolution of any complaints referred by ICE OPR.

B. Interim Action Pending Complaint Resolution

Whenever any participating LEA personnel are under investigation and subject to interrogation by the LEA for any reason that could lead to disciplinary action, demotion, or dismissal, the policy requirements of the LEA shall be honored. If appropriate, an individual may be removed from participation in the activities covered under the MOA pending resolution of an inquiry.

C. Time Parameters for Resolution of Complaints

It is expected that any complaint received will be resolved within 90 days. However, this will depend upon the nature and complexity of the substance of the complaint itself.

D. Notification of Resolution of a Complaint

ICE OPR will coordinate with the LEA's Internal Affairs Division to ensure notification as appropriate to the subject(s) of a complaint regarding the resolution of the complaint.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XIII of this MOA, the signatories agree to coordinate any release of information to the media regarding actions taken under this MOA. The points of contact for coordinating such activities are:

For the LEA:

PAO's Name

Title

Phone number

Address

Email

For ICE:

Department of Homeland Security
Immigration and Customs Enforcement
Office of Public Affairs

Exhibit 5



JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300
Fax (850) 487-0168
<https://www.myfloridalegal.com>

March 18, 2025

The City of Fort Myers
2200 Second Street
Fort Myers, FL 33901

RE: Immediate Compliance with State Immigration Laws

Dear City Council:

On March 17, 2025, the Fort Myers City Council voted not to approve the Fort Myers Police Department's 287(g) agreement with the United States Immigration and Customs Enforcement. This action constitutes a serious and direct violation of Florida Law.

Section 908.103, Florida Statutes, prohibits law enforcement and local government entities from adopting or having in effect any sanctuary policy. "Sanctuary policy" means a law, policy, practice, procedure, or custom adopted or allowed by a state or local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. § 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the agency from participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law (§§ 908.102(6), 908.102(6)(h), Fla. Stat.).

By failing to approve the Department's 287(g) agreement, Fort Myers is implicitly implementing a sanctuary policy. Prohibiting city police officers from receiving the necessary federal training to adequately enforce U.S. immigration laws not only prevents city police from enforcing current federal immigration law but effectively prevents the city police department from participating in federal immigration operations.

Sanctuary policies are not tolerated or lawful in Florida. Immediate corrective action is required. Failure to correct the Council's actions will result in the enforcement of all applicable civil and criminal penalties, including but not limited to being held in contempt, declaratory or injunctive relief, and removal from office by the Governor pursuant to section 908.107, Florida Statutes and the Florida Constitution.

Sincerely,

James Uthmeier
Florida Attorney General

Exhibit 6



STATE OF FLORIDA

**JAMES UTHMEIER
ATTORNEY GENERAL**

April 14, 2025

The Honorable Buddy Dyer
Mayor of Orlando
400 South Orange Avenue
Orlando FL 32901

Dear Mayor Dyer

On April 7, 2025, at the Orlando City Council meeting, you stated that the Orlando Police Department (OPD) will not be proactive in immigration enforcement and will instead adhere to the 'Trust Act Policy'—an unlawful and, as of 2019, void policy adopted by the City of Orlando that prevents city employees, including law enforcement officers, from inquiring about a person's immigration status. This letter serves as notice that this office will take legal action against the City of Orlando and any city employee or agent thereof that violates chapter 908 of the Florida Statutes.

Chapter 908 of the Florida Statutes contains provisions outlining state law regarding the enforcement of federal immigration law in Florida. Specifically, section 908.103, Florida Statutes, prohibits law enforcement and local government entities from adopting or having in effect any sanctuary policy. "Sanctuary policy" means a law, policy, practice, procedure, or custom adopted or allowed by a state or local governmental entity that prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the agency from participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law (§§ 908.102(6), 908.102(6)(h), Fla. Stat.). Additionally, any official responsible for directing or supervising state and local law enforcement agencies shall use best efforts to support the enforcement of federal immigration law when acting within the scope of his or her employment (§ 908.104(1) Fla. Stat.). Moreover, a state entity, 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 recording and maintaining an individual's immigration status (§ 908.104(2)(b), Fla. Stat.).

By prohibiting law enforcement officers from inquiring about a person's immigration status, the City of Orlando is unlawfully implementing a sanctuary policy and blatantly violating the law. Law enforcement must be able to attain information regarding an individual's legal status in order to comply with state and federal immigration laws and assist in federal immigration operations. They are authorized to collect this information without hindrance under Florida law. As the mayor of the City of Orlando and as an official responsible for directing OPD, you must use best efforts to support the enforcement of federal immigration crimes as required by Florida law.

Sanctuary policies are not tolerated or lawful in Florida. Failure to abide by state law may result in the enforcement of applicable penalties, including but not limited to being held in contempt, declaratory or injunctive relief, and removal from office by the Governor pursuant to section 908.107, Florida Statutes and the Florida Constitution.

Sincerely

A handwritten signature in black ink, appearing to read "James Uthmeier", written in a cursive style.

JAMES UTHMEIER, Attorney General

cc: Jim Gray
Tony Ortiz
Robert Stuart
Patty Sheehan
Shan Rose
Barkari Burns

Exhibit 7



OFFICE OF ATTORNEY GENERAL JAMES UTHMEIER

June 9, 2025

Dr. Gregory Tony
Broward County Sheriff
2601 West Broward Boulevard
Fort Lauderdale FL 33312

Sheriff Tony:

I write to seek clarity on several problematic remarks you made at a June 3, 2025 Budget Workshop of the Broward County Commission Meeting. In that meeting, you stated that the Broward County Sheriff's Office (BSO) has "other priorities in this community" and that "immigration is not one of them."¹ You went on to say that arresting illegal aliens is "not within our purview, it's not within our responsibility, and I won't participate in it." I would hope your statements were mere political posturing, but if not, your expressed positions would constitute a failure of your statutory obligation to utilize "best efforts to support the enforcement of federal immigration law" under § 908.104(1), Florida Statutes.

Per § 908.104(1), Florida Statutes, "any official responsible for directing or supervising" a state or local law enforcement agency "shall use best efforts to support the enforcement of federal immigration law" when acting within the scope of his or her employment. You are such an official, and therefore must use "best efforts" to work with federal immigration authorities, including United States Immigration and Customs Enforcement (ICE). Your statements to the contrary suggest you misunderstand or intend to flout these requirements under Florida law. Ironically, your office is currently party to *two* 287(g) agreements with ICE—the Warrant Service Officer Model (Sept. 9, 2019) and the Task Force Model (Feb. 26, 2025). Florida's "best efforts" law means what it says—the law isn't satisfied by entering agreements you have no intention of fulfilling. Florida law unambiguously and intentionally requires more.

Illegal aliens are responsible for horrific crimes in Broward County. In March 2025, Carlos Jose Abreau, a 45-year-old illegal alien from the Dominican Republic pled guilty in

¹ WPLG Local 10, *Broward Sheriff Gregory Tony says BSO won't be working with ICE*, YouTube (Jun. 5, 2025), [youtube.com/watch?v=PDiWgWmYHmQ](https://www.youtube.com/watch?v=PDiWgWmYHmQ).

Broward County for impersonating a U.S. citizen, illegally voting, and unlawfully possessing a firearm.² Abreau had been living under a stolen identity for nearly two decades and is wanted in New Jersey for kidnapping, sexual assault, and endangering a child.³ In December 2024, a Bahamian citizen and 11 Chinese migrants were arrested by authorities in a human smuggling bust after their boat capsized near Fort Lauderdale.⁴ And in the fall of 2024 Rene Jorge Genezio Jr., an illegal alien from Brazil, was arrested for sexually assaulting a Florida resident in Deerfield Beach.⁵ These and other heinous crimes by illegal aliens in Broward County must be stopped. Given these realities, it is unclear to me why “immigration” wouldn’t be one of your priorities.

Of all the funds Broward County devotes to its local agencies, your office receives 55.7%.⁶ I venture to suggest that there is room in your \$765 million budget to abide by state law, cooperate fully with the federal government, and protect Florida citizens from illegal aliens. Broward County citizens deserve to be safe from crime, especially crime that is preventable through proactive enforcement of immigration law. Florida law and policy prioritize removing illegal aliens from our communities.

So must you.

I request that you immediately clarify your remarks to affirm that your policy and intention is to fulfill your obligations under § 908.104(1), Florida Statutes.

My office will use every tool available to ensure local officials obey Florida law and protect public safety. Penalties for failure to adhere to the obligations set forth in § 908.104(1), Florida Statutes, include declaratory and injunctive relief, being held in contempt, or removal from office by the Governor pursuant to § 908.107, Florida Statutes.

Sincerely,



James Uthmeier
Attorney General

Cc: Hon. Ron DeSantis, Governor

² Press Release, U.S. Attorney’s Office for the Southern District of Florida, *Broward Man Pleads Guilty to Impersonating U.S. Citizen to Vote in Federal Election* (Mar. 17, 2025), justice.gov/usao-sdfl/pr/broward-man-pleads-guilty-impersonating-us-citizen-vote-federal-election.

³ Press Release, U.S. Attorney’s Office for the Southern District of Florida, *Illegal Alien Indicted on Voter Fraud and Gun Charges* (Feb. 3, 2025), justice.gov/usao-sdfl/pr/illegal-alien-indicted-voter-fraud-and-gun-charges.

⁴ Local News, *More than 10 arrested after human smuggling bust in Fort Lauderdale*, Local 10, Dec. 29, 2024, local10.com/news/local/2024/12/29/more-than-10-arrested-after-human-smuggling-bust-in-fort-lauderdale.

⁵ Jason Hopkins, *Terrified Woman Woke Up To Illegal Migrant Sexually Assaulting Her In Friend’s Car, Authorities Allege*, Daily Caller, Sep. 5, 2024, dailycaller.com/2024/09/05/brazilian-fingers-florida-woman-while-sleeping.

⁶ Carlton Gillespie, *Despite controversy Broward Sheriff’s Office sees \$84 million budget increase*, WLRN, Sep. 18, 2024, wlrn.org/law-justice/2024-09-18/broward-sheriffs-budget-helicopters