

## CHAPTER 2022-193

### Committee Substitute for Senate Bill No. 1808

An act relating to immigration enforcement; amending s. 900.05, F.S.; revising the type of data required to be reported by the clerk of the court, county detention facilities, and the Department of Corrections as part of criminal justice data collection; amending s. 908.102, F.S.; revising the definition of the term “sanctuary policy” to include specified laws, policies, practices, procedures, or customs that limit or prohibit a law enforcement agency from providing specified immigration information to a state entity; creating s. 908.11, F.S.; requiring each law enforcement agency operating a county detention facility to enter into a specified agreement with the United States Immigration and Customs Enforcement to assist with immigration enforcement; requiring such agency to report specified information concerning such agreement quarterly to the Department of Law Enforcement; creating s. 908.111, F.S.; providing definitions; prohibiting a governmental entity from executing, amending, or renewing a contract with common carriers or contracted carriers under certain circumstances; requiring specified governmental entity contracts with common carriers or contracted carriers to include specified provisions on or after a certain date; requiring the Department of Management Services to develop a specified form; providing an effective date.

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

Section 1. Paragraphs (a), (d), and (e) of subsection (3) of section 900.05, Florida Statutes, are amended to read:

900.05 Criminal justice data collection.—

(3) DATA COLLECTION AND REPORTING.—An entity required to collect data in accordance with this subsection shall collect the specified data and report them in accordance with this subsection to the Department of Law Enforcement on a monthly basis.

(a) *Clerk of the court.*—Each clerk of court shall collect the following data for each criminal case:

1. Case number.
2. Date that the alleged offense occurred.
3. Date the defendant is taken into physical custody by a law enforcement agency or is issued a notice to appear on a criminal charge.
4. Whether the case originated by notice to appear.
5. Date that the criminal prosecution of a defendant is formally initiated.

6. Arraignment date.
7. Attorney appointment date.
8. Attorney withdrawal date.
9. Case status.
10. Charge disposition.
11. Disposition date and disposition type.
12. Information related to each defendant, including:
  - a. Identifying information, including name, known aliases, date of birth, race, ethnicity, and gender.
  - b. Zip code of last known address.
  - c. Primary language.
  - d. Citizenship.
  - e. Immigration status, ~~if applicable~~.
  - f. Whether the defendant has been found to be indigent under s. 27.52.
13. Information related to the charges filed against the defendant, including:
  - a. Charge description.
  - b. Charge modifier description and statute, if applicable.
  - c. Drug type for each drug charge, if known.
  - d. Qualification for a flag designation as defined in this section, including a domestic violence flag, gang affiliation flag, sexual offender flag, habitual offender flag, habitual violent felony offender flag, pretrial release violation flag, prison releasee reoffender flag, three-time violent felony offender flag, or violent career criminal flag.
14. Information related to bail or bond and pretrial release determinations, including the dates of any such determinations:
  - a. Pretrial release determination made at a first appearance hearing that occurs within 24 hours of arrest, including any monetary and nonmonetary conditions of release.
  - b. Modification of bail or bond conditions made by a court having jurisdiction to try the defendant or, in the absence of the judge of the trial court, by the circuit court, including modifications to any monetary and nonmonetary conditions of release.

c. Cash bail or bond payment, including whether the defendant utilized a bond agent to post a surety bond.

d. Date defendant is released on bail, bond, or pretrial release for the current case.

e. Bail or bond revocation due to a new offense, a failure to appear, or a violation of the terms of bail or bond, if applicable.

15. Information related to court dates and dates of motions and appearances, including:

a. Date of any court appearance and the type of proceeding scheduled for each date reported.

b. Date of any failure to appear in court, if applicable.

c. Deferred prosecution or pretrial diversion hearing, if applicable.

d. Each scheduled trial date.

e. Date that a defendant files a notice to participate in discovery.

f. Speedy trial motion date and each hearing date, if applicable.

g. Dismissal motion date and each hearing date, if applicable.

16. Defense attorney type.

17. Information related to sentencing, including:

a. Date that a court enters a sentence against a defendant.

b. Charge sentenced to, including charge sequence number, and charge description.

c. Sentence type and length imposed by the court in the current case, reported in years, months, and days, including, but not limited to, the total duration of incarceration in a county detention facility or state correctional institution or facility, and conditions of probation or community control supervision.

d. Amount of time served in custody by the defendant related to each charge that is credited at the time of disposition of the charge to reduce the imposed length of time the defendant will serve on the term of incarceration that is ordered by the court at disposition.

e. Total amount of court costs imposed by the court at the disposition of the case.

f. Total amount of fines imposed by the court at the disposition of the case.

- g. Restitution amount ordered at sentencing.
18. The sentencing judge or magistrate, or their equivalent.
- (d) *County detention facility*.—The administrator of each county detention facility shall collect the following data:
1. Maximum capacity for the county detention facility.
  2. Weekly admissions to the county detention facility for a revocation of probation or community control.
  3. Weekly admissions to the county detention facility for a revocation of pretrial release.
  4. Daily population of the county detention facility, including the specific number of inmates in the custody of the county that:
    - a. Are awaiting case disposition.
    - b. Have been sentenced by a court to a term of incarceration in the county detention facility.
    - c. Have been sentenced by a court to a term of imprisonment with the Department of Corrections and who are awaiting transportation to the department.
    - d. Have a federal detainer, are awaiting disposition of a case in federal court, or are awaiting other federal disposition.
  5. Information related to each inmate, including:
    - a. Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the county detention facility.
    - b. Immigration status.
      - ~~c.b.~~ Date when an inmate is processed and booked into the county detention facility subsequent to an arrest for a new violation of law, for a violation of probation or community control, or for a violation of pretrial release.
      - ~~c.e.~~ Reason why an inmate is processed and booked into the county detention facility, including a new law violation, a violation of probation or community control, or a violation of pretrial release.
      - ~~c.d.~~ Qualification for a flag designation as defined in this section, including domestic violence flag, gang affiliation flag, habitual offender flag, habitual violent felony offender flag, pretrial release violation flag, sexual offender flag, prison releasee reoffender flag, three-time violent felony offender flag, or violent career criminal flag.

6. Total population of the county detention facility at year-end. This data must include the same specified classifications as subparagraph 4.

7. Per diem rate for a county detention facility bed.

8. Daily number of correctional officers for the county detention facility.

9. Annual county detention facility budget. This information only needs to be reported once annually at the beginning of the county's fiscal year.

10. Annual revenue generated for the county from the temporary incarceration of federal defendants or inmates.

(e) *Department of Corrections.*—The Department of Corrections shall collect the following data:

1. Information related to each inmate, including:

a. Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the department.

b. Immigration status.

~~c.b.~~ Highest education level.

~~d.e.~~ Date the inmate was admitted to the custody of the department for his or her current incarceration.

~~e.d.~~ Current institution placement and the security level assigned to the institution.

f.e. Custody level assignment.

g.f. Qualification for a flag designation as defined in this section, including sexual offender flag, habitual offender flag, habitual violent felony offender flag, prison releasee reoffender flag, three-time violent felony offender flag, violent career criminal flag, gang affiliation flag, or concurrent or consecutive sentence flag.

h.g. County that committed the prisoner to the custody of the department.

i.h. Whether the reason for admission to the department is for a new conviction or a violation of probation, community control, or parole. For an admission for a probation, community control, or parole violation, the department shall report whether the violation was technical or based on a new violation of law.

j.i. Specific statutory citation for which the inmate was committed to the department, including, for an inmate convicted of drug trafficking under s. 893.135, the statutory citation for each specific drug trafficked.

- ~~k.j.~~ Length of sentence served.
- ~~l.k.~~ Length of concurrent or consecutive sentences served.
- ~~m.l.~~ Tentative release date.
- ~~n.m.~~ Gain time earned in accordance with s. 944.275.
- ~~o.n.~~ Prior incarceration within the state.
- ~~p.o.~~ Disciplinary violation and action.
- ~~q.p.~~ Participation in rehabilitative or educational programs while in the custody of the department.
- ~~r.q.~~ Digitized sentencing scoresheet prepared in accordance with s. 921.0024.
2. Information about each state correctional institution or facility, including:
- Budget for each state correctional institution or facility.
  - Daily prison population of all inmates incarcerated in a state correctional institution or facility.
  - Daily number of correctional officers for each state correctional institution or facility.
3. Information related to persons supervised by the department on probation or community control, including:
- Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race, ethnicity, gender, case number, and department-assigned case number.
  - Immigration status.
- ~~c.b.~~ Length of probation or community control sentence imposed and amount of time that has been served on such sentence.
- ~~d.e.~~ Projected termination date for probation or community control.
- ~~e.d.~~ Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.
4. Per diem rates for:
- Prison bed.
  - Probation.

c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

Section 2. Subsection (6) of section 908.102, Florida Statutes, is amended to read:

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

(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 as required by s. 908.11; or

(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.

Section 3. Section 908.11, Florida Statutes, is created to read:

908.11 Immigration enforcement assistance agreements; reporting requirement.—

(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.

(2) Beginning no later than 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 Department of Law Enforcement quarterly of the

status of such written agreement and any reason for noncompliance with this section, if applicable.

Section 4. Section 908.111, Florida Statutes, is created to read:

908.111 Prohibition against governmental entity contracts with common carriers; required termination provisions.—

(1) As used in this section, the term:

(a) “Common carrier” means a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering his or her services to all such as may choose to employ the common carrier and pay his or her charges.

(b) “Contract” means a contract that is subject to the competitive procurement requirements of the contracting governmental entity or a contract for an amount or duration requiring it to include written provisions under the procurement requirements of the governmental entity.

(c) “Governmental entity” means an agency of the state, a regional or local government created by the State Constitution or by a general or special act, a county or municipality, or any other entity that independently exercises governmental authority.

(d) “Unauthorized alien” means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

(2) A governmental entity may not execute, amend, or renew a contract with a common carrier or contracted carrier if the carrier is willfully providing any service in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

(3) A contract between a governmental entity and a common carrier or contracted carrier which is executed, amended, or renewed on or after October 1, 2022, including a grant agreement or economic incentive program payment agreement, must include:

(a) An attestation by the common carrier or contracted carrier, in conformity with s. 92.525, that the common carrier or contracted carrier is not willfully providing and will not willfully provide any service during the contract term in furtherance of transporting a person into this state knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from this state or the United States. A governmental entity is deemed to be in compliance with subsection (2) upon receipt of the common carrier’s or contracted carrier’s attestation; and

(b) A provision for termination for cause of the contract, grant agreement, or economic incentive program payment agreement if a common carrier or contracted carrier is found in violation of its attestation.

(4) The Department of Management Services shall develop by rule a common carrier and contracted carrier attestation form no later than August 30, 2022.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 17, 2022.

Filed in Office Secretary of State June 17, 2022.