

Florida Department of Law Enforcement



Kate Holmes
Acting General Counsel



Topics

- Florida Statutes Chapter 908
- Florida Statutes Chapter 811



Chapter 908-Federal Immigration Enforcement

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



Chapter 908- Federal Immigration Enforcement

- 908.102- Definitions-
 - Defines “Federal Immigration Agency”
 - Defines “Immigration detainer”:
 - (2) “Immigration detainer” means a facially sufficient written or electronic request issued by a federal immigration agency using that agency’s official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant described in paragraph (c). For purposes of this subsection, an immigration detainer is deemed facially sufficient if:



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- (a) The federal immigration agency's official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or
- (b) The federal immigration agency's official form is **incomplete** and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that indicates that the federal immigration agency has probable cause to believe that the person to be detained is a removable alien under federal immigration law; and
- (c) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law.



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- 908.102 (con't):
 - Defines “Inmate”, “Law enforcement agency”, “Local governmental entity”, and “State entity”
 - Defines “Sanctuary policy”:
 - (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:



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- (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;
- (e) Providing a federal immigration agency with an inmate's incarceration status or release date;
- (f) Providing information to a state entity on the immigration status of an inmate or detainee in the custody of the law enforcement agency;
- (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.



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- **908.103- Sanctuary policies prohibited.-**

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



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- 908.1031- State Board of Immigration Enforcement; creation; purpose and duties.
- Defines the board as the Cabinet. All board action shall be by unanimous vote. Requires the appointment of an Executive Director to assist in the implementation of its responsibilities.
- The board is the chief immigration officer of the state and shall:
 - (a) Serve as a resource for the United States Immigration and Customs Enforcement.
 - (b) Coordinate and cooperate with the Federal Government in the enforcement of federal immigration laws and other matters related to the enforcement of federal immigration laws.
 - (c) Coordinate with and provide assistance to law enforcement agencies in the enforcement of federal immigration laws and other matters related to the enforcement of federal immigration laws, and monitor local government compliance with the requirements of this chapter.
 - (d) Administer the Local Law Enforcement Immigration Grant Program established in s. 908.1033.



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- (e) Collect data related to operations with the United States Immigration and Customs Enforcement from law enforcement agencies and, by December 15 of each year, submit a report to the President of the Senate and the Speaker of the House of Representatives. The report may contain recommendations to the Legislature to improve the state's cooperation and coordination with the Federal Government in the enforcement of federal immigration laws within this state. The report must detail the number of trained law enforcement officers under the required agreements in s. 908.11 and the level of cooperation and coordination between the following entities and federal immigration agencies:
 - 1. State entities.
 - 2. Local governmental entities.
 - 3. Law enforcement agencies.
- (f) Actively seek Congressional action to amend the National Crime Prevention and Privacy Compact to require states that are a party to the compact to share information relating to a person's immigration status for criminal justice purposes and to require that such information be fully shared with all federal agencies having authority over immigration enforcement.



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- (g) No later than March 24, 2025, report to the President of the Senate and the Speaker of the House of Representatives the number of vacant beds available in state correctional institutions and facilities and county detention facilities which can be sublet to the United States Immigration and Customs Enforcement for use as detention beds. Operators of state correctional institutions and facilities and county detention facilities shall provide such information requested by the board no later than March 15, 2025.
- Allows for the Board to adopt rules necessary to implement
- FDLE must provide administrative support to the Board.



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- 908.1032- State Immigration Enforcement Council-
- The State Immigration Enforcement Council, an advisory council as defined in s. 20.03, is created within the State Board of Immigration Enforcement for the **purpose of advising the board.**
- First meeting shall be held no later than April 1, 2025. Thereafter, the council must meet quarterly. Additional meetings may be held at the discretion of the chair. A majority of members of the council constitute a quorum. Council meetings may be conducted by teleconference or other electronic means.



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- (4) The council shall:
 - (a) Assist the State Board of Immigration Enforcement on issues related to immigration enforcement, provided such requests are made after unanimous approval of the board.
 - (b) Recommend to the board program participation expenses related to s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357, which should be reimbursable under the Local Law Enforcement Immigration Grant Program established in s. 908.1033 and funding criteria for the program.
 - (c) Request guidance from the United States Immigration and Customs Enforcement for training opportunities and strategies to further s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357, program participation in the state and advise the board on new training activities that could be considered for reimbursement under the Local Law Enforcement Immigration Grant Program.
 - (d) Advise the board on the efforts of local law enforcement agencies related to the enforcement of federal immigration laws within the state.¹³



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- (e) Provide recommendations on the financial resources necessary to aid local law enforcement agencies, and any other resources necessary to facilitate the training of such agencies, in the cooperation and coordination with the Federal Government in the enforcement of federal immigration laws.
- (f) Provide recommendations to enhance information sharing between state entities, local governmental entities, law enforcement agencies, and the Federal Government in the enforcement of federal immigration laws within the state. The recommendations must provide for enhanced use and coordination of the following Federal Government centers, including, but not limited to:
 - 1. The Federal Bureau of Investigation's Terrorist Screening Center.
 - 2. The United States Customs and Border Protection's National Targeting Center.
 - 3. The United States Department of Homeland Security Fusion Centers.
 - 4. The United States Drug Enforcement Administration's Special Operations Unit.



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- (g) Provide recommendations on strategies to increase the number of available detention beds for use by the United States Immigration and Customs Enforcement.
- (h) Upon unanimous approval of the board, assist in the collection of data from law enforcement agencies as required under s. 908.1031(3)(e).
- Will discuss 908.1033-Grant Program later



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- 908.104- Cooperation with federal immigration authorities.-
- (1) Consistent with all duties created in state and federal law, state and local law enforcement agencies and any official responsible for directing or supervising such agency **shall use best efforts to support the enforcement of federal immigration law**. This subsection applies to an official, representative, agent, or employee of the entity or agency only when he or she is acting within the scope of his or her official duties or within the scope of his or her employment.



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- (2) Except as otherwise expressly prohibited by federal law, 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 taking any of the following actions with respect to information regarding a person's immigration status:**
 - (a) Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency for purposes of this chapter.
 - (b) Recording and maintaining the information for purposes of this chapter.
 - (c) Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency for purposes of this chapter.
 - (d) Using the information to comply with an immigration detainer.
 - (e) Using the information to confirm the identity of a person who is detained by a law enforcement agency.
 - (f) Sending the applicable information obtained pursuant to enforcement of s. 448.095 to a federal immigration agency.



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- (3) A state entity, local governmental entity, or law enforcement agency may not prohibit or in any way restrict a law enforcement officer from executing or assisting in the execution of a lawful judicial warrant.
- (4)(a) For purposes of this subsection, the term “applicable criminal case” means a criminal case in which:
 - 1. The judgment requires the defendant to be confined in a secure correctional facility; and
 - 2. The judge:
 - a. Indicates in the record under s. 908.105 that the defendant is subject to an immigration detainer; or
 - b. Otherwise indicates in the record that the defendant is subject to a transfer into federal custody.



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- (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 soon₁₉ as the information becomes available.



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- (5) When a county correctional facility or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in the law enforcement agency's custody, the agency may securely transport the person to a federal facility in this state or to another point of transfer to federal custody outside the jurisdiction of the law enforcement agency. The law enforcement agency may transfer a person who is subject to an immigration detainer and is confined in a secure correctional facility to the custody of a federal immigration agency not earlier than 12 days before his or her release date. A law enforcement agency shall obtain judicial authorization before securely transporting an alien to a point of transfer outside of this state.
- (6) Upon request from a federal immigration agency, a sheriff or chief correctional officer operating a county detention facility must provide the requesting federal immigration agency a list of all inmates booked into a county detention facility and any information regarding each inmate's immigration status.



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- (7) This section does not require a state entity, local governmental entity, or law enforcement agency to provide a federal immigration agency with information related to a victim of or a witness to a criminal offense if:
 - (a) The victim or witness is necessary to the investigation or prosecution of a crime, and such crime occurred in the United States; and
 - (b) The victim or witness timely and in good faith responds to the entity's or agency's request for information and cooperates in the investigation or prosecution of such offense.



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- (8) A state entity, local governmental entity, or law enforcement agency that, pursuant to subsection (7), withholds information regarding the immigration information of a victim of or witness to a criminal offense shall document the victim's or witness's cooperation in the entity's or agency's investigative records related to the offense and shall retain the records for at least 10 years for the purpose of audit, verification, or inspection by the Auditor General.
- (9) This section does not authorize a law enforcement agency to detain an alien unlawfully present in the United States pursuant to an immigration detainer solely because the alien witnessed or reported a crime or was a victim of a criminal offense.



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- (10) This section does not apply to any alien unlawfully present in the United States if he or she is or has been a 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, provided that such crime was committed in the United States. Documentation, including, but not limited to, police reports, testimony, sworn statements, or a victim impact statement, must be relied upon to verify that the person was a necessary witness or victim to the crime.



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- 908.105 Duties related to immigration detainers.-
- (1) A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency shall:
 - (a) Provide to the judge authorized to grant or deny the person's release on bail under chapter 903 notice that the person is subject to an immigration detainer.
 - (b) Record in the person's case file that the person is subject to an immigration detainer.
 - (c) Upon determining that the immigration detainer is in accordance with s. 908.102(2), comply with the requests made in the immigration detainer.
 - (d) Notify the state attorney that the person is subject to an immigration detainer.



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- (2) A law enforcement agency is not required to perform a duty imposed by paragraph (1)(a) or paragraph (1)(b) with respect to a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed that duty before the transfer.
- (3) A judge who receives notice that a person is subject to an immigration detainer shall cause the fact to be recorded in the court record, regardless of whether the notice is received before or after a judgment in the case.



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- (4)(a) If any county, district, authority, municipality, or other local government adopts an ordinance, a regulation, a rule, or a policy refusing to comply with or otherwise directing local officials, employees, or others to **refuse to comply with an immigration detainer issued by a federal immigration agency**, the **Attorney General must** initiate judicial proceedings in the name of the state in order to **enforce compliance**. The court, upon finding noncompliance with this subsection, shall declare invalid the improper ordinance, regulation, rule, or policy and issue a permanent injunction against the local government prohibiting it from enforcing such ordinance, regulation, rule, or policy. It is not a defense that in enacting the ordinance, regulation, rule, or policy the local government was acting in good faith or upon advice of counsel.



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- (b) If the court determines that a violation was knowing and willful, the court must assess a civil fine of up to \$5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred.
- (c) Except as required by applicable law, public funds may not be used to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated this subsection.



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



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- 908.107 Enforcement.—
 - (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.



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- (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.
- (3) If a local governmental entity or local law enforcement agency violates this chapter, **the court must enjoin the unlawful sanctuary policy.** The court has continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceedings as provided by law.
- (4) An order approving a consent decree or granting an injunction must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy that violates this chapter.



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



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



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- 908.11 Immigration enforcement assistance agreements; reporting requirement.—
 - (1) The sheriff or the chief correctional officer 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 to participate in a particular program model.



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- (2) Beginning no later than April 1, 2025, and until the sheriff or chief correctional officer operating a county detention facility enters into the written agreement required under subsection (1), each sheriff or chief correctional officer operating a county detention facility must notify the State Board of Immigration Enforcement quarterly of the status of such written agreement and any reason for noncompliance with this section, if applicable.



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- 908.111 Prohibition against governmental entity contracts with common carriers; required termination provisions.—
 - Defines “Common carrier”, “Contract”, “Governmental entity”, and “unauthorized alien”.



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- (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.



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- 908.12 Transnational crime organizations; reclassification.—
- (1) As used in this section, the term “transnational crime organization” means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.
- (2) The penalty for any misdemeanor or felony may be reclassified if the commission of such misdemeanor or felony was for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The reclassification is as follows:
 - (a) A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
 - (b) A misdemeanor of the first degree is reclassified to a felony of the third degree.
 - (c) A felony of the third degree is reclassified to a felony of the second degree.
 - (d) A felony of the second degree is reclassified to a felony of the first degree.
 - (e) A felony of the first degree is reclassified to a life felony.



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- 908.13 Unauthorized Alien Transport Program.—
- (1) As used in this section, the term “unauthorized alien” has the same meaning as in s. 908.111.
- (2) The Unauthorized Alien Transport Program is created within the Division of Emergency Management within the Executive Office of the Governor for the purpose of facilitating the transport of unauthorized aliens, consistent with federal law. In order for the division to provide such transport, all of the following requirements must be met:
 - (a) The United States Immigration and Customs Enforcement must specifically request assistance from the division with the transport of unauthorized aliens pursuant to specific federal legal authority.
 - (b) The United States Immigration and Customs Enforcement must reimburse the state for the actual cost of assisting with the transport of unauthorized aliens.
 - (c) The transport must occur under the direct control and supervision of the United States Immigration and Customs Enforcement.
- (3) The section is repealed June 30, 2027.



Chapter 811- UNAUTHORIZED ALIENS, NATIONALITY, AND IMMIGRATION

- 811.101 Definitions.—As used in this chapter, the term:
 - (1) “Removal” means the departure from the United States of an unauthorized alien after any proceeding under 8 U.S.C. s. 1225, s. 1228, s. 1229, or s. 1229a or any agreement in which an unauthorized alien stipulates to his or her departure from the United States as part of a criminal proceeding under federal or state law.
 - (2) “Unauthorized alien” has the same meaning as in s. 908.111.



Chapter 811- UNAUTHORIZED ALIENS, NATIONALITY, AND IMMIGRATION

- 811.102 Illegal entry by adult unauthorized alien into this state.—
 - (1) Except as provided in subsection (2), an unauthorized alien who is 18 years of age or older 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. A person convicted of a violation of this subsection must be sentenced to a mandatory minimum term of imprisonment of 9 months.



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- (2)(a) An unauthorized alien who has one prior conviction for a violation of this section and who commits a second violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this paragraph must be sentenced to a mandatory minimum term of imprisonment of 1 year and 1 day.
- (b) An unauthorized alien who has two or more prior convictions for a violation of this section and who commits a subsequent violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted for a violation of this paragraph must be sentenced to a mandatory minimum term of imprisonment of 2 years.



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- (3) An unauthorized alien **may not be arrested** for a violation of this section if the unauthorized alien was encountered by law enforcement **during the investigation of another crime** that occurred in this state and the **unauthorized alien witnessed or reported such crime or was a victim of such crime.**
- (4) It is an **affirmative defense** to prosecution under this section if:
 - (a) The Federal Government has granted the unauthorized alien lawful presence in the United States or discretionary relief that authorizes the unauthorized alien to remain in the United States temporarily or permanently;
 - (b) The unauthorized alien is subject to relief under the Cuban Adjustment Act of 1966; or
 - (c) The unauthorized alien's entry into the United States did not constitute a violation of 8 U.S.C. s. 1325(a).



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- (5) Notwithstanding any other law, and unless release is otherwise required by the State Constitution or the United States Constitution, the court shall presume that no conditions of release can reasonably assure the presence of an unauthorized alien arrested for a violation of this section at his or her trial and must order the unauthorized alien to be detained pending the disposition of the case.
- (6) An unauthorized alien who commits a violation of this section is not eligible for a civil citation, prearrest or postarrest diversion program, or other similar program, including, but not limited to, any program described in s. 901.41 or s. 921.00241.



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- (7) Upon making an arrest for a violation of this section, the **arresting law enforcement agency shall:**
 - (a) Notify Immigration and Customs Enforcement of the United States Department of Homeland Security of the unauthorized alien's arrest and provide any known information relating to the unauthorized alien; and
 - (b) Notify the Department of Law Enforcement of the unauthorized alien's arrest and provide information relating to the unauthorized alien, which must include his or her fingerprints, photograph, and any other biometric information necessary to identify the unauthorized alien.



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- 811.103 Illegal reentry of an adult unauthorized alien.—
- (1) An unauthorized alien who is 18 years of age or older commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she, after having been denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state. An unauthorized alien does not commit a violation of this subsection if, before the unauthorized alien's reembarkation at a place outside the United States or his or her application for admission from a foreign contiguous territory:
 - (a) The Attorney General of the United States expressly consented to his or her reapplication for admission; or
 - (b) With respect to an unauthorized alien who was previously denied admission and removed, the unauthorized alien establishes that he or she was not required to obtain such advance consent under the Immigration and Nationality Act, as amended.



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- (2) Except as provided in subsection (3), an unauthorized alien who violates subsection (1) must be sentenced to a mandatory minimum term of imprisonment of 1 year and 1 day.
- (3)(a) An unauthorized alien who has three or more prior convictions for a misdemeanor or a felony, other than a forcible felony as defined in s. 776.08 or an aggravated felony as defined in 8 U.S.C. s. 1101, and who commits a violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of violating this paragraph must be sentenced to a mandatory minimum term of imprisonment of 2 years.



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- (b) An unauthorized alien who has a prior conviction for a forcible felony as defined in s. 776.08 or an aggravated felony as defined in 8 U.S.C. s. 1101 and who commits a violation of subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this paragraph must be sentenced to a mandatory minimum term of imprisonment of 5 years.



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- (4) Notwithstanding any other law, and unless release is otherwise required by the State Constitution or the United States Constitution, the court shall presume that no conditions of release can reasonably assure the presence of an unauthorized alien arrested for a violation of this section at his or her trial and must order the unauthorized alien to be detained pending the disposition of the case.
- (5) An unauthorized alien who commits a violation of this section is not eligible for a civil citation, prearrest or postarrest diversion program, or other similar program, including, but not limited to, any program described in s. 901.41 or s. 921.00241.



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- (6) Upon making an arrest for a violation of this section, the **arresting law enforcement agency** shall:
 - (a) Notify Immigration and Customs Enforcement of the United States Department of Homeland Security of the unauthorized alien's arrest and provide any known information relating to the unauthorized alien; and
 - (b) Notify the Department of Law Enforcement of the unauthorized alien's arrest and provide information relating to the unauthorized alien, which must include his or her fingerprints, photograph, and any other biometric information necessary to identify the unauthorized alien.

