

1 A bill to be entitled
2 An act relating to federal immigration enforcement;
3 providing a short title; creating chapter 908, F.S.,
4 relating to federal immigration enforcement; providing
5 legislative findings and intent; defining terms;
6 prohibiting sanctuary policies; requiring state
7 entities, local governmental agencies, and law
8 enforcement agencies to comply with and support the
9 enforcement of federal immigration law; prohibiting
10 restrictions by such entities and agencies on taking
11 certain actions with respect to information regarding
12 a person's immigration status; authorizing a law
13 enforcement agency to transport an unauthorized alien
14 under certain circumstances; providing an exception to
15 reporting requirements for crime victims or witnesses;
16 requiring recordkeeping relating to crime victim and
17 witness cooperation in certain investigations;
18 authorizing a board of county commissioners to adopt
19 an ordinance to recover costs for complying with an
20 immigration detainer; requiring reporting of
21 violations; providing penalties for failing to report
22 a violation; providing whistle-blower protections for
23 persons who report violations; providing for
24 injunctive relief and civil penalties; providing for
25 costs and attorney fees; prohibiting the expenditure
26 of public funds for specified purposes; requiring the

27 Attorney General to prescribe the format for
 28 submitting complaints; providing a cause of action for
 29 personal injury or wrongful death attributed to a
 30 sanctuary policy; providing that a trial by jury is a
 31 matter of right; waiving sovereign immunity for such
 32 actions; providing for implementation; providing an
 33 effective date.

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

36

37 Section 1. Short title.—This act may be cited as the "Rule
 38 of Law Adherence Act."

39 Section 2. Chapter 908, Florida Statutes, consisting of
 40 sections 908.001-908.0010, is created to read:

41

CHAPTER 908

42

FEDERAL IMMIGRATION ENFORCEMENT

43 908.001 Legislative findings and intent.—The Legislature
 44 finds it is an important state interest that state agencies,
 45 local governments, and their officials owe an affirmative duty
 46 to all citizens and other persons lawfully within the United
 47 States to assist the Federal Government with enforcement of
 48 federal immigration laws within this state, including complying
 49 with federal immigration detainers. The Legislature further
 50 finds it is an important state interest that, in the interest of
 51 public safety and adherence to federal law, this state support
 52 federal immigration enforcement efforts and ensure that such

53 efforts are not impeded or thwarted by state or local laws,
54 policies, practices, procedures, or customs. State agencies,
55 local governments, and their officials who encourage persons
56 unlawfully present in the United States to locate within this
57 state or who shield such persons from personal responsibility
58 for their unlawful actions breach this duty and should be held
59 accountable.

60 908.002 Definitions.—As used in this chapter, the term:

61 (1) "Federal immigration agency" means the United States
62 Department of Homeland Security, or its successor agency, and
63 any of its divisions, including United States Immigration and
64 Customs Enforcement, United States Customs and Border
65 Protection, or any other federal agency charged with the
66 enforcement of immigration law. The term includes an official or
67 employee of such agency.

68 (2) "Immigration detainer" means a written request issued
69 by a federal immigration agency to another law enforcement
70 agency to provide notice of release and to detain a person based
71 on an inquiry into the person's immigration status or an alleged
72 violation of a civil immigration law, including detainers issued
73 pursuant to 8 U.S.C. ss. 1226 and 1357.

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

76 (4) "Law enforcement agency" means an agency in this state
77 charged with enforcement of state, county, municipal, or federal
78 laws or with managing custody of detained persons in the state

79 and includes municipal police departments, sheriff's offices,
 80 state police departments, campus police departments, and the
 81 Department of Corrections. The term includes an official or
 82 employee of such agency.

83 (5) "Local governmental entity" means any county,
 84 municipality, or other political subdivision of this state. The
 85 term includes a person holding public office or having official
 86 duties as a representative, agent, or employee of such entity.

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

96 (a) Complying with an immigration detainer;

97 (b) Providing a federal immigration agency access to an
 98 inmate for interview;

99 (c) Initiating an immigration status investigation; or

100 (d) Providing a federal immigration agency with an
 101 inmate's incarceration status or release date.

102 (7) "Sanctuary policymaker" means a state or local elected
 103 official, or an appointed official of a local governmental
 104 entity governing body, who has voted for, allowed to be

105 implemented, or voted against repeal or prohibition of a
 106 sanctuary policy.

107 (8) "State entity" means the state or any office, board,
 108 bureau, commission, department, branch, division, or institution
 109 thereof. The term includes a person holding public office or
 110 having official duties as a representative, agent, or employee
 111 of such entity.

112 908.003 Sanctuary policies prohibited.—A state entity, law
 113 enforcement agency, or local governmental entity may not adopt
 114 or have in effect a sanctuary policy.

115 908.004 Cooperation with federal immigration authorities.—

116 (1) Except as otherwise expressly prohibited by federal
 117 law, a state entity, local governmental entity, or law
 118 enforcement agency may not prohibit or in any way restrict
 119 another state entity, local governmental entity, or law
 120 enforcement agency from taking any of the following actions with
 121 respect to information regarding a person's immigration status:

122 (a) Sending such information to or requesting or receiving
 123 such information from a federal immigration agency for purposes
 124 of this chapter.

125 (b) Maintaining such information for purposes of this
 126 chapter.

127 (c) Exchanging such information with a federal immigration
 128 agency or another state entity, local governmental entity, or
 129 law enforcement agency for purposes of this chapter.

130 (d) Using such information to determine eligibility for a

131 public benefit, service, or license pursuant to federal or state
132 law or an ordinance or regulation of a local governmental
133 entity.

134 (e) Using such information to verify a claim of residence
135 or domicile if a determination of residence or domicile is
136 required under federal or state law, an ordinance or regulation
137 of any local governmental entity, or a judicial order issued
138 pursuant to a civil or criminal proceeding in this state.

139 (f) Using such information to confirm the identity of a
140 person who is detained by a law enforcement agency.

141 (2) A state entity, local governmental entity, or law
142 enforcement agency shall fully comply with and, to the full
143 extent permitted by law, support the enforcement of federal
144 immigration law. This subsection is only applicable to an
145 official, representative, agent, or employee of such entity or
146 agency when he or she is acting within the scope of his or her
147 official duties or within the scope of his or her employment.

148 (3) Notwithstanding any other provision of law, if a law
149 enforcement agency has received verification from a federal
150 immigration agency that an alien in the law enforcement agency's
151 custody is unlawfully present in the United States, the law
152 enforcement agency may securely transport such alien to a
153 federal facility in this state or to another point of transfer
154 to federal custody outside the jurisdiction of the law
155 enforcement agency. A law enforcement agency shall obtain
156 judicial authorization before securely transporting such alien

157 to a point of transfer outside of this state.

158 (4) This section does not require a state entity, local
159 governmental entity, or law enforcement agency to provide a
160 federal immigration agency with information related to a victim
161 of or a witness to a criminal offense if such victim or witness
162 timely and in good faith responds to the entity's or agency's
163 request for information and cooperation in the investigation or
164 prosecution of such offense.

165 (5) A state entity, local governmental entity, or law
166 enforcement agency that, pursuant to subsection (4), withholds
167 information regarding the immigration information of a victim of
168 or witness to a criminal offense shall document such victim's or
169 witness's cooperation in the entity's or agency's investigative
170 records related to the offense and shall retain such records for
171 at least 10 years for the purpose of audit, verification, or
172 inspection by the Auditor General.

173 908.005 Reimbursement of costs for complying with an
174 immigration detainer.—A board of county commissioners may adopt
175 an ordinance requiring a person detained pursuant to a lawful
176 and valid immigration detainer to reimburse the county for any
177 expenses incurred in detaining the person pursuant to the
178 immigration detainer. A person detained pursuant to an
179 immigration detainer is not liable under this section if a
180 federal immigration agency determines that the immigration
181 detainer was improperly issued.

182 908.006 Duty to report.—

183 (1) An official, representative, agent, or employee of a
 184 state entity, local governmental entity, or law enforcement
 185 agency shall promptly report a known or probable violation of
 186 this chapter to the Attorney General or the state attorney
 187 having jurisdiction over the entity or agency.

188 (2) An official, representative, agent, or employee of a
 189 state entity, local governmental entity, or law enforcement
 190 agency who willfully and knowingly fails to report a known or
 191 probable violation of this chapter may be suspended or removed
 192 from office pursuant to general law and s. 7, Art. IV of the
 193 State Constitution.

194 (3) A state entity, local governmental entity, or law
 195 enforcement agency may not dismiss, discipline, take any adverse
 196 personnel action as defined in s. 112.3187(3) against, or take
 197 any adverse action described in s. 112.3187(4) (b) against, an
 198 official, representative, agent, or employee for complying with
 199 subsection (1).

200 (4) Section 112.3187 of the Whistle-blower's Act applies
 201 to an official, representative, agent, or employee of a state
 202 entity, local governmental entity, or law enforcement agency who
 203 is dismissed, disciplined, subject to any adverse personnel
 204 action as defined in s. 112.3187(3) or any adverse action
 205 described in s. 112.3187(4) (b), or denied employment because he
 206 or she complied with subsection (1).

207 908.007 Enforcement; penalties.-

208 (1) The Attorney General or a state attorney may institute

209 proceedings in circuit court to enjoin a state entity, local
210 governmental entity, or law enforcement agency found to be in
211 violation of this chapter. The court shall expedite an action
212 under this section, including setting a hearing at the earliest
213 practicable date.

214 (2) Upon adjudication by the court or as provided in a
215 consent decree declaring that a state entity, local governmental
216 entity, or law enforcement agency has violated this chapter, the
217 court shall enjoin the unlawful policy or practice and order
218 that such entity or agency pay a civil penalty to the state of
219 at least \$1,000 but not more than \$5,000 for each day that the
220 policy or practice was in effect before the injunction was
221 granted. The court shall have continuing jurisdiction over the
222 parties and subject matter and may enforce its orders with
223 imposition of additional civil penalties as provided for in this
224 section and contempt proceedings as provided by law.

225 (3) A state entity, local governmental entity, or law
226 enforcement agency ordered to pay a civil penalty pursuant to
227 subsection (2) shall remit payment to the Chief Financial
228 Officer for appropriation as provided in the General
229 Appropriations Act or, if not provided for in the General
230 Appropriations Act, such funds shall revert to the General
231 Revenue Fund.

232 (4) The court may award court costs and reasonable
233 attorney fees to the prevailing party in an action brought
234 pursuant to this section.

235 (5) Except as required by applicable law, public funds may
236 not be used to defend or reimburse a sanctuary policymaker or an
237 official, representative, agent, or employee of a state entity,
238 local governmental entity, or law enforcement agency who
239 knowingly and willfully violates this chapter.

240 908.008 Resident complaint; penalties.—The Attorney
241 General shall prescribe and provide through the Department of
242 Legal Affairs' website the format for a person to submit a
243 complaint alleging a violation of this chapter. This section
244 does not prohibit the filing of an anonymous complaint or a
245 complaint not submitted in the prescribed format.

246 908.009 Civil cause of action for personal injury or
247 wrongful death attributed to a sanctuary policy; trial by jury;
248 waiver of sovereign immunity.—

249 (1) A person injured by the tortious acts or omissions of
250 an alien unlawfully present in the United States, or the
251 personal representative of a person killed by the tortious acts
252 or omissions of an alien unlawfully present in the United
253 States, has a cause of action for damages against a state
254 entity, local governmental entity, or law enforcement agency in
255 violation of s. 908.003 and s. 908.004, and any sanctuary
256 policymaker of any such entity or agency, upon proof by the
257 greater weight of the evidence of:

258 (a) The existence of a sanctuary policy in violation of s.
259 908.003; and

260 (b) A failure to comply with any provision of s. 908.004

261 resulting in such alien's having access to the person injured or
262 killed when the tortious acts or omissions occurred.

263 (2) A cause of action brought pursuant to subsection (1)
264 may not be brought against any person who holds public office,
265 or has official duties as a representative, agent, or employee
266 of a state entity, local governmental entity, or law enforcement
267 agency, unless such person is a sanctuary policymaker.

268 (3) Trial by jury is a matter of right in an action
269 brought under this section.

270 (4) In accordance with s. 13, Art. X of the State
271 Constitution, the state, for itself and its political
272 subdivisions, waives sovereign immunity for actions brought
273 under this section. In addition, s. 768.28(9) does not apply to
274 a sanctuary policymaker in a claim brought pursuant to this
275 section.

276 908.0010 Implementation.—This chapter shall be implemented
277 to the fullest extent permitted by federal law regulating
278 immigration and the legislative findings and intent declared in
279 s. 908.001.

280 Section 3. This act shall take effect July 1, 2016.