



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; providing
6 definitions; prohibiting sanctuary policies; requiring
7 state entities, local governmental entities, 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; authorizing local governmental
21 entities and law enforcement agencies to petition the
22 Federal Government for reimbursement of certain costs;
23 requiring reporting of violations; providing penalties
24 for failing to report a violation; providing whistle-
25 blower protections for persons who report violations;
26 providing for investigation of possible violations;



27 providing for injunctive relief and civil penalties;
 28 requiring written findings; prohibiting the
 29 expenditure of public funds for specified purposes;
 30 requiring the Attorney General to prescribe the format
 31 for submitting complaints; providing a cause of action
 32 for personal injury or wrongful death attributed to a
 33 sanctuary policy; providing that a trial by jury is a
 34 matter of right; requiring written findings; providing
 35 for implementation; requiring repeal of existing
 36 sanctuary policies within a specified period;
 37 providing effective dates.

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

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

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

45 CHAPTER 908

46 FEDERAL IMMIGRATION ENFORCEMENT

47 908.001 Legislative findings and intent.—The Legislature
 48 finds it is an important state interest that state agencies,
 49 local governments, and their officials owe an affirmative duty
 50 to all citizens and other persons lawfully within the United
 51 States to assist the Federal Government with enforcement of
 52 federal immigration laws within this state, including complying



53 with federal immigration detainers. The Legislature further
54 finds it is an important state interest that, in the interest of
55 public safety and adherence to federal law, this state support
56 federal immigration enforcement efforts and ensure that such
57 efforts are not impeded or thwarted by state or local laws,
58 policies, practices, procedures, or customs. State agencies,
59 local governments, and their officials who encourage persons
60 unlawfully present in the United States to locate within this
61 state or who shield such persons from personal responsibility
62 for their unlawful actions breach this duty and should be held
63 accountable.

64 908.002 Definitions.—As used in this chapter, the term:

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

72 (2) "Immigration detainer" means a facially sufficient
73 written or electronic request issued by a federal immigration
74 agency using that agency's official form to request that another
75 law enforcement agency detain a person based on an inquiry into
76 the person's immigration status or an alleged violation of a
77 civil immigration law, including detainers issued pursuant to 8
78 U.S.C. ss. 1226 and 1357. For purposes of this subsection, an



79 immigration detainer is deemed facially sufficient if:

80 (a) The federal immigration agency's official form is
81 complete and indicates on its face that the federal immigration
82 official has reason to believe that the person to be detained
83 may not have been lawfully admitted to the United States or
84 otherwise is not lawfully present in the United States; or

85 (b) The federal immigration agency's official form is
86 incomplete and fails to indicate on its face that the federal
87 immigration official has reason to believe that the person to be
88 detained may not have been lawfully admitted to the United
89 States or otherwise is not lawfully present in the United
90 States, but is supported by an accompanying affidavit or order
91 that indicates the federal immigration official has reason to
92 believe that the person to be detained may not have been
93 lawfully admitted to the United States or otherwise is not
94 lawfully present in the United States.

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

97 (4) "Law enforcement agency" means an agency in this state
98 charged with enforcement of state, county, municipal, or federal
99 laws or with managing custody of detained persons in the state
100 and includes municipal police departments, sheriff's offices,
101 state police departments, campus police departments, and the
102 Department of Corrections. The term includes an official or
103 employee of such agency.

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



105 municipality, or other political subdivision of this state. The
106 term includes a person holding public office or having official
107 duties as a representative, agent, or employee of such entity.

108 (6) "Sanctuary policy" means a law, policy, practice,
109 procedure, or custom adopted or permitted by a state entity, law
110 enforcement agency, or local governmental entity which
111 contravenes 8 U.S.C. s. 1373(a) or (b), or which knowingly
112 prohibits or impedes a law enforcement agency from communicating
113 or cooperating with a federal immigration agency with respect to
114 federal immigration enforcement, including, but not limited to,
115 limiting or preventing a state entity, local governmental
116 entity, or law enforcement agency from:

117 (a) Complying with an immigration detainer;

118 (b) Complying with a request from a federal immigration
119 agency to notify the agency before the release of an inmate or
120 detainee in the custody of the state entity, local governmental
121 entity, or law enforcement agency.

122 (c) Providing a federal immigration agency access to an
123 inmate for interview;

124 (d) Initiating an immigration status investigation; or

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

127 (7) "Sanctuary policymaker" means a state or local elected
128 official, or an appointed official of a local governmental
129 entity governing body, who has voted for, allowed to be
130 implemented, or voted against repeal or prohibition of a



131 sanctuary policy.

132 (8) "State entity" means the state or any office, board,
133 bureau, commission, department, branch, division, or institution
134 thereof. The term includes a person holding public office or
135 having official duties as a representative, agent, or employee
136 of such entity.

137 908.003 Sanctuary policies prohibited.—A state entity, law
138 enforcement agency, or local governmental entity may not adopt
139 or have in effect a sanctuary policy.

140 908.004 Cooperation with federal immigration authorities.—

141 (1) Except as otherwise expressly prohibited by federal
142 law, a state entity, local governmental entity, or law
143 enforcement agency may not prohibit or in any way restrict
144 another state entity, local governmental entity, or law
145 enforcement agency from taking any of the following actions with
146 respect to information regarding a person's immigration status:

147 (a) Sending such information to or requesting or receiving
148 such information from a federal immigration agency for purposes
149 of this chapter.

150 (b) Maintaining such information for purposes of this
151 chapter.

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

155 (d) Using such information to determine eligibility for a
156 public benefit, service, or license pursuant to federal or state



157 law or an ordinance or regulation of a local governmental
158 entity.

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

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

166 (2) A state entity, local governmental entity, or law
167 enforcement agency shall fully comply with and, to the full
168 extent permitted by law, support the enforcement of federal
169 immigration law. This subsection is only applicable to an
170 official, representative, agent, or employee of such entity or
171 agency when he or she is acting within the scope of his or her
172 official duties or within the scope of his or her employment.

173 (3) Notwithstanding any other provision of law, if a law
174 enforcement agency has received verification from a federal
175 immigration agency that an alien in the law enforcement agency's
176 custody is unlawfully present in the United States, the law
177 enforcement agency may securely transport such alien to a
178 federal facility in this state or to another point of transfer
179 to federal custody outside the jurisdiction of the law
180 enforcement agency. A law enforcement agency shall obtain
181 judicial authorization before securely transporting such alien
182 to a point of transfer outside of this state.



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

190 (5) A state entity, local governmental entity, or law
191 enforcement agency that, pursuant to subsection (4), withholds
192 information regarding the immigration information of a victim of
193 or witness to a criminal offense shall document such victim's or
194 witness's cooperation in the entity's or agency's investigative
195 records related to the offense and shall retain such records for
196 at least 10 years for the purpose of audit, verification, or
197 inspection by the Auditor General.

198 908.005 Reimbursement of costs.—

199 (1) A board of county commissioners may adopt an ordinance
200 requiring a person detained pursuant to a lawful and valid
201 immigration detainer to reimburse the county for any expenses
202 incurred in detaining the person pursuant to the immigration
203 detainer. A person detained pursuant to an immigration detainer
204 is not liable under this section if a federal immigration agency
205 determines that the immigration detainer was improperly issued.

206 (2) The state hereby authorizes a local governmental
207 entity or law enforcement agency to petition the Federal
208 Government for reimbursement of the entity's or agency's



209 detention costs and the costs of compliance with federal
210 requests when such costs are incurred in support of the
211 enforcement of federal immigration law.

212 908.006 Duty to report.—

213 (1) An official, representative, agent, or employee of a
214 state entity, local governmental entity, or law enforcement
215 agency shall promptly report a known or probable violation of
216 this chapter to the Attorney General or the state attorney
217 having jurisdiction over the entity or agency.

218 (2) An official, representative, agent, or employee of a
219 state entity, local governmental entity, or law enforcement
220 agency who willfully and knowingly fails to report a known or
221 probable violation of this chapter may be suspended or removed
222 from office pursuant to general law and s. 7, Art. IV of the
223 State Constitution.

224 (3) A state entity, local governmental entity, or law
225 enforcement agency may not dismiss, discipline, take any adverse
226 personnel action as defined in s. 112.3187(3) against, or take
227 any adverse action described in s. 112.3187(4)(b) against, an
228 official, representative, agent, or employee for complying with
229 subsection (1).

230 (4) Section 112.3187 of the Whistle-blower's Act applies
231 to an official, representative, agent, or employee of a state
232 entity, local governmental entity, or law enforcement agency who
233 is dismissed, disciplined, subject to any adverse personnel
234 action as defined in s. 112.3187(3) or any adverse action



235 described in s. 112.3187(4) (b), or denied employment because he
236 or she complied with subsection (1).

237 908.007 Enforcement; penalties.-

238 (1) The state attorney for the county in which a state
239 entity is headquartered or in which a local governmental entity
240 or law enforcement agency is located has primary responsibility
241 and authority for investigating credible reports of a violation
242 of this chapter. The results of an investigation by a state
243 attorney shall be provided to the Attorney General in a timely
244 manner.

245 (2) The Attorney General, the state attorney who conducted
246 the investigation, or a state attorney ordered by the Governor
247 pursuant to s. 27.14 may institute proceedings in circuit court
248 to enjoin a state entity, local governmental entity, or law
249 enforcement agency found to be in violation of this chapter. The
250 court shall expedite an action under this section, including
251 setting a hearing at the earliest practicable date.

252 (3) Upon adjudication by the court or as provided in a
253 consent decree declaring that a state entity, local governmental
254 entity, or law enforcement agency has violated this chapter, the
255 court shall enjoin the unlawful sanctuary policy and order that
256 such entity or agency pay a civil penalty to the state of at
257 least \$1,000 but not more than \$5,000 for each day that the
258 sanctuary policy was in effect before the injunction was
259 granted. The court shall have continuing jurisdiction over the
260 parties and subject matter and may enforce its orders with



261 imposition of additional civil penalties as provided for in this
262 section and contempt proceedings as provided by law.

263 (4) An order approving a consent decree or granting an
264 injunction or civil penalties pursuant to subsection (3) must
265 include written findings of fact that describe with specificity
266 the existence and nature of the sanctuary policy and that
267 identify each sanctuary policymaker who voted for, allowed to be
268 implemented, or voted against repeal or prohibition of the
269 sanctuary policy. The court shall provide a copy of the consent
270 decree or order granting an injunction or civil penalties that
271 contains the written findings required by this subsection to the
272 Governor within 30 days after the date of rendition. A sanctuary
273 policymaker identified in an order approving a consent decree or
274 granting an injunction or civil penalties may be suspended or
275 removed from office pursuant to general law and s. 7, Art. IV of
276 the State Constitution.

277 (5) A state entity, local governmental entity, or law
278 enforcement agency ordered to pay a civil penalty pursuant to
279 subsection (3) shall remit payment to the Chief Financial
280 Officer, who shall deposit such payment into the General Revenue
281 Fund.

282 (6) Except as required by applicable law, public funds may
283 not be used to defend or reimburse a sanctuary policymaker or an
284 official, representative, agent, or employee of a state entity,
285 local governmental entity, or law enforcement agency who
286 knowingly and willfully violates this chapter.



287 908.008 Resident complaint; penalties.—The Attorney
288 General shall prescribe and provide through the Department of
289 Legal Affairs' website the format for a person to submit a
290 complaint alleging a violation of this chapter. This section
291 does not prohibit the filing of an anonymous complaint or a
292 complaint not submitted in the prescribed format.

293 908.009 Civil cause of action for personal injury or
294 wrongful death attributed to a sanctuary policy; trial by jury;
295 required written findings.—

296 (1) A person injured by the tortious acts or omissions of
297 an alien unlawfully present in the United States, or the
298 personal representative of a person killed by the tortious acts
299 or omissions of an alien unlawfully present in the United
300 States, has a cause of action for damages against a state
301 entity, local governmental entity, or law enforcement agency in
302 violation of ss. 908.003 and 908.004 upon proof by the greater
303 weight of the evidence of:

304 (a) The existence of a sanctuary policy in violation of s.
305 908.003; and

306 (b) A failure to comply with any provision of s. 908.004
307 resulting in such alien's having access to the person injured or
308 killed when the tortious acts or omissions occurred.

309 (2) A cause of action brought pursuant to subsection (1)
310 may not be brought against any person who holds public office,
311 or has official duties as a representative, agent, or employee
312 of a state entity, local governmental entity, or law enforcement



313 agency, including a sanctuary policymaker.

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

316 (4) A final judgment entered in favor of a plaintiff in a
317 cause of action brought pursuant to this section must include
318 written findings of fact that describe with specificity the
319 existence and nature of the sanctuary policy in violation of s.
320 908.003 and that identify each sanctuary policymaker who voted
321 for, allowed to be implemented, or voted against repeal or
322 prohibition of the sanctuary policy. The court shall provide a
323 copy of the final judgment containing the written findings
324 required by this subsection to the Governor within 30 days after
325 the date of rendition. A sanctuary policymaker identified in a
326 final judgment may be suspended or removed from office pursuant
327 to general law and s. 7, Art. IV of the State Constitution.

328 (5) This chapter does not create a private cause of action
329 against a state entity, local governmental entity, or law
330 enforcement agency that complies with this chapter.

331 908.0010 Implementation.—This chapter shall be implemented
332 to the fullest extent permitted by federal law regulating
333 immigration and the legislative findings and intent declared in
334 s. 908.001.

335 Section 3. A sanctuary policy, as defined in s. 908.002,
336 Florida Statutes, as created by this act, that is in effect on
337 the effective date of this act must be repealed within 90 days
338 after that date.



CS/CS/HB 675, Engrossed 1

2016

339 Section 4. Sections 908.007 and 908.009, Florida Statutes,
340 as created by this act, shall take effect October 1, 2016, and,
341 except as otherwise expressly provided in this act, this act
342 shall take effect July 1, 2016.
343