

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; specifying
10 duties concerning certain arrested persons; specifying
11 duties concerning immigration detainers; prohibiting
12 restrictions by such entities and agencies on taking
13 certain actions with respect to information regarding
14 a person's immigration status; providing requirements
15 concerning certain criminal defendants subject to
16 immigration detainers or otherwise subject to transfer
17 to federal custody; authorizing a law enforcement
18 agency to transport an unauthorized alien under
19 certain circumstances; providing an exception to
20 reporting requirements for crime victims or witnesses;
21 requiring recordkeeping relating to crime victim and
22 witness cooperation in certain investigations;
23 authorizing a board of county commissioners to adopt
24 an ordinance to recover costs for complying with an
25 immigration detainer; authorizing local governmental
26 entities and law enforcement agencies to petition the

27 Federal Government for reimbursement of certain costs;
 28 requiring report of violations; providing penalties
 29 for failure to report a violation; providing whistle-
 30 blower protections for persons who report violations;
 31 requiring the Attorney General to prescribe the format
 32 for submitting complaints; providing requirements for
 33 entities to comply with document requests from state
 34 attorneys concerning violations; providing for
 35 investigation of possible violations; providing for
 36 injunctive relief and civil penalties; requiring
 37 written findings; prohibiting the expenditure of
 38 public funds for specified purposes; providing a cause
 39 of action for personal injury or wrongful death
 40 attributed to a sanctuary policy; providing that a
 41 trial by jury is a matter of right; requiring written
 42 findings; providing for applicability to certain
 43 education records; prohibiting discrimination on
 44 specified grounds; providing for implementation;
 45 requiring repeal of existing sanctuary policies within
 46 a specified period; providing effective dates.

47

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

49

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

52 Section 2. Chapter 908, Florida Statutes, consisting of

53 sections 908.101-908.402, is created to read:

54 CHAPTER 908

55 FEDERAL IMMIGRATION ENFORCEMENT

56 PART I

57 FINDINGS AND DEFINITIONS

58 908.101 Legislative findings and intent.—The Legislature
 59 finds that it is an important state interest that state
 60 entities, local governmental entities, and their officials owe
 61 an affirmative duty to all citizens and other persons lawfully
 62 present in the United States to assist the Federal Government
 63 with enforcement of federal immigration laws within this state,
 64 including complying with federal immigration detainers. The
 65 Legislature further finds that it is an important state interest
 66 that, in the interest of public safety and adherence to federal
 67 law, this state support federal immigration enforcement efforts
 68 and ensure that such efforts are not impeded or thwarted by
 69 state or local laws, policies, practices, procedures, or
 70 customs. State entities, local governmental entities, and their
 71 officials who encourage persons unlawfully present in the United
 72 States to locate within this state or who shield such persons
 73 from personal responsibility for their unlawful actions breach
 74 this duty and should be held accountable.

75 908.102 Definitions.—As used in this chapter, the term:
 76 (1) "Federal immigration agency" means the United States
 77 Department of Justice, the United States Department of Homeland
 78 Security, or any successor agency and any division of such

79 agency, including United States Immigration and Customs
80 Enforcement, United States Customs and Border Protection, or any
81 other federal agency charged with the enforcement of immigration
82 law. The term includes an official or employee of such agency.

83 (2) "Immigration detainer" means a facially sufficient
84 written or electronic request issued by a federal immigration
85 agency using that agency's official form to request that another
86 law enforcement agency detain a person based on an inquiry into
87 the person's immigration status or an alleged violation of a
88 civil immigration law, including detainers issued pursuant to 8
89 U.S.C. ss. 1226 and 1357. For purposes of this subsection, an
90 immigration detainer is deemed facially sufficient if:

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

96 (b) The federal immigration agency's official form is
97 incomplete and fails to indicate on its face that the federal
98 immigration official has reason to believe that the person to be
99 detained may not have been lawfully admitted to the United
100 States or otherwise is not lawfully present in the United
101 States, but is supported by an accompanying affidavit or order
102 that indicates that the federal immigration agency has reason to
103 believe that the person to be detained may not have been
104 lawfully admitted to the United States or otherwise is not

105 lawfully present in the United States.

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

108 (4) "Law enforcement agency" means an agency in this state
 109 charged with enforcement of state, county, municipal, or federal
 110 laws or with managing custody of detained persons in the state
 111 and includes municipal police departments, sheriff's offices,
 112 state police departments, state university and college police
 113 departments, and the Department of Corrections. The term
 114 includes an official or employee of such agency.

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

119 (6) "Sanctuary policy" means a law, policy, practice,
 120 procedure, or custom adopted or permitted by a state entity,
 121 local governmental entity, or law enforcement agency which
 122 contravenes 8 U.S.C. s. 1373(a) or (b), or which knowingly
 123 prohibits or impedes a law enforcement agency from communicating
 124 or cooperating with a federal immigration agency with respect to
 125 federal immigration enforcement, including, but not limited to,
 126 limiting or preventing a state entity, local governmental
 127 entity, or law enforcement agency from:

128 (a) Complying with an immigration detainer;

129 (b) Complying with a request from a federal immigration
 130 agency to notify the agency before the release of an inmate or

131 detainee in the custody of the state entity, local governmental
132 entity, or law enforcement agency;

133 (c) Providing a federal immigration agency access to an
134 inmate for interview;

135 (d) Initiating an immigration status investigation; or

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

138 (7) "Sanctuary policymaker" means a state or local elected
139 official, or an appointed official of a local governmental
140 entity governing body, who has voted for, allowed to be
141 implemented, or voted against repeal or prohibition of a
142 sanctuary policy.

143 (8) "State entity" means the state or any office, board,
144 bureau, commission, department, branch, division, or institution
145 thereof, including institutions within the State University
146 System and the Florida College System. The term includes a
147 person holding public office or having official duties as a
148 representative, agent, or employee of such entity.

149 PART II

150 DUTIES

151 908.201 Sanctuary policies prohibited.—A state entity, law
152 enforcement agency, or local governmental entity may not adopt
153 or have in effect a sanctuary policy.

154 908.202 Cooperation with federal immigration authorities.—

155 (1) A state entity, local governmental entity, or law
156 enforcement agency shall fully comply with and, to the full

157 extent permitted by law, support the enforcement of federal
158 immigration law. This subsection is only applicable to an
159 official, representative, agent, or employee of such entity or
160 agency when he or she is acting within the scope of his or her
161 official duties or within the scope of his or her employment.

162 (2) Except as otherwise expressly prohibited by federal
163 law, a state entity, local governmental entity, or law
164 enforcement agency may not prohibit or in any way restrict
165 another state entity, local governmental entity, or law
166 enforcement agency from taking any of the following actions with
167 respect to information regarding a person's immigration status:

168 (a) Sending such information to or requesting, receiving,
169 or reviewing such information from a federal immigration agency
170 for purposes of this chapter.

171 (b) Recording and maintaining such information for
172 purposes of this chapter.

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

176 (d) Using such information to determine eligibility for a
177 public benefit, service, or license pursuant to federal or state
178 law or an ordinance or regulation of a local governmental
179 entity.

180 (e) Using such information to verify a claim of residence
181 or domicile if a determination of residence or domicile is
182 required under federal or state law, an ordinance or regulation

183 of a local governmental entity, or a judicial order issued
 184 pursuant to a civil or criminal proceeding in this state.

185 (f) Using such information to comply with an immigration
 186 detainer.

187 (g) Using such information to confirm the identity of a
 188 person who is detained by a law enforcement agency.

189 (3) (a) This subsection only applies in a criminal case in
 190 which:

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

193 2. The judge:

194 a. Indicates in the record under s. 908.204 that the
 195 defendant is subject to an immigration detainer; or

196 b. Otherwise indicates in the record that the defendant is
 197 subject to a transfer into federal custody.

198 (b) In a criminal case described by paragraph (a), the
 199 judge shall, at the time of pronouncement of a sentence of
 200 confinement, issue an order requiring the secure correctional
 201 facility in which the defendant is to be confined to reduce the
 202 defendant's sentence by a period of not more than 7 days on the
 203 facility's determination that the reduction in sentence will
 204 facilitate the seamless transfer of the defendant into federal
 205 custody. For purposes of this paragraph, the term "secure
 206 correctional facility" means a state correctional institution,
 207 as defined in s. 944.02, or a county detention facility or a
 208 municipal detention facility, as defined in s. 951.23.

209 (c) If the applicable information described by
210 subparagraph (a)2. is not available at the time the sentence is
211 pronounced in the case, the judge shall issue the order
212 described by paragraph (b) as soon as the information becomes
213 available.

214 (4) Notwithstanding any other provision of law, if a law
215 enforcement agency has received verification from a federal
216 immigration agency that an alien in the law enforcement agency's
217 custody is unlawfully present in the United States, the law
218 enforcement agency may securely transport such alien to a
219 federal facility in this state or to another point of transfer
220 to federal custody outside the jurisdiction of the law
221 enforcement agency. A law enforcement agency shall obtain
222 judicial authorization before securely transporting such alien
223 to a point of transfer outside of this state.

224 (5) This section does not require a state entity, local
225 governmental entity, or law enforcement agency to provide a
226 federal immigration agency with information related to a victim
227 of or a witness to a criminal offense if such victim or witness
228 timely and in good faith responds to the entity's or agency's
229 request for information and cooperation in the investigation or
230 prosecution of such offense.

231 (6) A state entity, local governmental entity, or law
232 enforcement agency that, pursuant to subsection (5), withholds
233 information regarding the immigration information of a victim of
234 or witness to a criminal offense shall document such victim's or

235 witness's cooperation in the entity's or agency's investigative
236 records related to the offense and shall retain such records for
237 at least 10 years for the purpose of audit, verification, or
238 inspection by the Auditor General.

239 908.203 Duties related to certain arrested persons.-

240 (1) If a person is arrested and is unable to provide proof
241 of his or her lawful presence in the United States, not later
242 than 48 hours after the person is arrested and before the person
243 is released on bond, a law enforcement agency performing the
244 booking process shall:

245 (a) Review any information available from a federal
246 immigration agency, including under the federal Priority
247 Enforcement Program operated by United States Immigration and
248 Customs Enforcement or a successor program.

249 (b) If information obtained under paragraph (a) reveals
250 that the person is not a citizen of the United States and is
251 unlawfully present in the United States according to the terms
252 of the federal Immigration and Nationality Act, 8 U.S.C. ss.
253 1101 et seq., the law enforcement agency shall:

254 1. Provide notice of that fact to the judge authorized to
255 grant or deny the person's release on bail under chapter 903.

256 2. Record that fact in the person's case file.

257 (2) A law enforcement agency is not required to perform a
258 duty imposed by subsection (1) with respect to a person who is
259 transferred to the custody of the agency by another law
260 enforcement agency if the transferring agency performed that

261 duty before transferring custody of the person.

262 (3) A judge who receives notice of a person's immigration
263 status under this section shall ensure that such status is
264 recorded in the court record.

265 908.204 Duties related to immigration detainer.—

266 (1) A law enforcement agency that has custody of a person
267 subject to an immigration detainer issued by a federal
268 immigration agency shall:

269 (a) Provide to the judge authorized to grant or deny the
270 person's release on bail under chapter 903 notice that the
271 person is subject to an immigration detainer.

272 (b) Record in the person's case file that the person is
273 subject to an immigration detainer.

274 (c) Comply with, honor, and fulfill the requests made in
275 the detainer.

276 (2) A law enforcement agency is not required to perform a
277 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
278 respect to a person who is transferred to the custody of the
279 agency by another law enforcement agency if the transferring
280 agency performed that duty before transferring custody of the
281 person.

282 (3) A judge who receives notice that a person is subject
283 to a detainer shall ensure that such fact is recorded in the
284 court record, regardless of whether the notice is received
285 before or after a judgment in the case.

286 908.205 Reimbursement of costs.—

287 (1) A board of county commissioners may adopt an ordinance
288 requiring a person detained pursuant to an immigration detainer
289 to reimburse the county for any expenses incurred in detaining
290 the person pursuant to the immigration detainer. A person
291 detained pursuant to an immigration detainer is not liable under
292 this section if a federal immigration agency determines that the
293 immigration detainer was improperly issued.

294 (2) A local governmental entity or law enforcement agency
295 may petition the Federal Government for reimbursement of the
296 entity's or agency's detention costs and the costs of compliance
297 with federal requests when such costs are incurred in support of
298 the enforcement of federal immigration law.

299 908.206 Duty to report.—

300 (1) An official, representative, agent, or employee of a
301 state entity, local governmental entity, or law enforcement
302 agency shall promptly report a known or probable violation of
303 this chapter to the Attorney General or the state attorney
304 having jurisdiction over the entity or agency.

305 (2) An official, representative, agent, or employee of a
306 state entity, local governmental entity, or law enforcement
307 agency who willfully and knowingly fails to report a known or
308 probable violation of this chapter may be suspended or removed
309 from office pursuant to general law and s. 7, Art. IV of the
310 State Constitution.

311 (3) A state entity, local governmental entity, or law
312 enforcement agency may not dismiss, discipline, take any adverse

313 personnel action as defined in s. 112.3187(3) against, or take
 314 any adverse action described in s. 112.3187(4) (b) against, an
 315 official, representative, agent, or employee for complying with
 316 subsection (1).

317 (4) Section 112.3187 of the Whistle-blower's Act applies
 318 to an official, representative, agent, or employee of a state
 319 entity, local governmental entity, or law enforcement agency who
 320 is dismissed, disciplined, subject to any adverse personnel
 321 action as defined in s. 112.3187(3) or any adverse action
 322 described in s. 112.3187(4) (b), or denied employment because he
 323 or she complied with subsection (1).

324 908.207 Implementation.—This chapter shall be implemented
 325 to the fullest extent permitted by federal law regulating
 326 immigration and the legislative findings and intent declared in
 327 s. 908.101.

328 PART III

329 ENFORCEMENT

330 908.301 Complaints.—The Attorney General shall prescribe
 331 and provide through the Department of Legal Affairs' website the
 332 format for a person to submit a complaint alleging a violation
 333 of this chapter. This section does not prohibit the filing of an
 334 anonymous complaint or a complaint not submitted in the
 335 prescribed format. Any person has standing to submit a complaint
 336 under this chapter.

337 908.302 Enforcement; penalties.—

338 (1) The state attorney for the county in which a state

339 entity is headquartered or in which a local governmental entity
340 or law enforcement agency is located has primary responsibility
341 and authority for investigating credible complaints of a
342 violation of this chapter. The results of an investigation by a
343 state attorney shall be provided to the Attorney General in a
344 timely manner.

345 (2) (a) A state entity, local governmental entity, or law
346 enforcement agency for which the state attorney has received a
347 complaint shall comply with a document request from the state
348 attorney related to the complaint.

349 (b) If the state attorney determines that a complaint
350 filed against a state entity, local governmental entity, or law
351 enforcement agency is valid, the state attorney shall, not later
352 than the 10th day after the date of the determination, provide
353 written notification to the entity that:

354 1. The complaint has been filed.

355 2. The state attorney has determined that the complaint is
356 valid.

357 3. The state attorney is authorized to file an action to
358 enjoin the violation if the entity does not come into compliance
359 with the requirements of this chapter on or before the 60th day
360 after the notification is provided.

361 (c) No later than the 30th day after the day a state
362 entity or local governmental entity receives written
363 notification under paragraph (b), the state entity or local
364 governmental entity shall provide the state attorney with a copy

365 of:

366 1. The entity's written policies and procedures with
367 respect to federal immigration agency enforcement actions,
368 including the entity's policies and procedures with respect to
369 immigration detainers.

370 2. Each immigration detainer received by the entity from a
371 federal immigration agency in the current calendar year-to-date
372 and the two prior calendar years.

373 3. Each response sent by the entity for an immigration
374 detainer described by subparagraph 2.

375 (3) The Attorney General, the state attorney who conducted
376 the investigation, or a state attorney ordered by the Governor
377 pursuant to s. 27.14 may institute proceedings in circuit court
378 to enjoin a state entity, local governmental entity, or law
379 enforcement agency found to be in violation of this chapter. The
380 court shall expedite an action under this section, including
381 setting a hearing at the earliest practicable date.

382 (4) Upon adjudication by the court or as provided in a
383 consent decree declaring that a state entity, local governmental
384 entity, or law enforcement agency has violated this chapter, the
385 court shall enjoin the unlawful sanctuary policy and order that
386 such entity or agency pay a civil penalty to the state of at
387 least \$1,000 but not more than \$5,000 for each day that the
388 sanctuary policy was in effect commencing on October 1, 2017, or
389 the date the sanctuary policy was first enacted, whichever is
390 later, until the date the injunction was granted. The court

391 shall have continuing jurisdiction over the parties and subject
392 matter and may enforce its orders with imposition of additional
393 civil penalties as provided for in this section and contempt
394 proceedings as provided by law.

395 (5) An order approving a consent decree or granting an
396 injunction or civil penalties pursuant to subsection (4) must
397 include written findings of fact that describe with specificity
398 the existence and nature of the sanctuary policy in violation of
399 s. 908.201 and that identify each sanctuary policymaker who
400 voted for, allowed to be implemented, or voted against repeal or
401 prohibition of the sanctuary policy. The court shall provide a
402 copy of the consent decree or order granting an injunction or
403 civil penalties that contains the written findings required by
404 this subsection to the Governor within 30 days after the date of
405 rendition. A sanctuary policymaker identified in an order
406 approving a consent decree or granting an injunction or civil
407 penalties may be suspended or removed from office pursuant to
408 general law and s. 7, Art. IV of the State Constitution.

409 (6) A state entity, local governmental entity, or law
410 enforcement agency ordered to pay a civil penalty pursuant to
411 subsection (4) shall remit payment to the Chief Financial
412 Officer, who shall deposit such payment into the General Revenue
413 Fund.

414 (7) Except as required by law, public funds may not be
415 used to defend or reimburse a sanctuary policymaker or an
416 official, representative, agent, or employee of a state entity,

417 local governmental entity, or law enforcement agency who
 418 knowingly and willfully violates this chapter.

419 908.303 Civil cause of action for personal injury or
 420 wrongful death attributed to a sanctuary policy; trial by jury;
 421 required written findings.-

422 (1) A person injured by the tortious acts or omissions of
 423 an alien unlawfully present in the United States, or the
 424 personal representative of a person killed by the tortious acts
 425 or omissions of an alien unlawfully present in the United
 426 States, has a cause of action for damages against a state
 427 entity, local governmental entity, or law enforcement agency in
 428 violation of ss. 908.201 and 908.202 upon proof by the greater
 429 weight of the evidence of:

430 (a) The existence of a sanctuary policy in violation of s.
 431 908.201; and

432 (b) A failure to comply with a provision of s. 908.202
 433 resulting in such alien's having access to the person injured or
 434 killed when the tortious acts or omissions occurred.

435 (2) A cause of action brought pursuant to subsection (1)
 436 may not be brought against a person who holds public office or
 437 who has official duties as a representative, agent, or employee
 438 of a state entity, local governmental entity, or law enforcement
 439 agency, including a sanctuary policymaker.

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

442 (4) A final judgment entered in favor of a plaintiff in a

443 cause of action brought pursuant to this section must include
444 written findings of fact that describe with specificity the
445 existence and nature of the sanctuary policy in violation of s.
446 908.201 and that identify each sanctuary policymaker who voted
447 for, allowed to be implemented, or voted against repeal or
448 prohibition of the sanctuary policy. The court shall provide a
449 copy of the final judgment containing the written findings
450 required by this subsection to the Governor within 30 days after
451 the date of rendition. A sanctuary policymaker identified in a
452 final judgment may be suspended or removed from office pursuant
453 to general law and s. 7, Art. IV of the State Constitution.

454 (5) Except as provided in this section, this chapter does
455 not create a private cause of action against a state entity,
456 local governmental entity, or law enforcement agency that
457 complies with this chapter.

458 908.304 Ineligibility for state grant funding.-

459 (1) Notwithstanding any other provision of law, a state
460 entity, local governmental entity, or law enforcement agency
461 shall be ineligible to receive funding from non-federal grant
462 programs administered by state agencies that receive funding
463 from the General Appropriations Act for a period of 5 years from
464 the date of adjudication that such state entity, local
465 governmental entity, or law enforcement agency had in effect a
466 sanctuary policy in violation of this chapter.

467 (2) The Chief Financial Officer shall be notified by the
468 state attorney of an adjudicated violation of this chapter by a

469 state entity, local governmental entity, or law enforcement
470 agency and be provided with a copy of the final court
471 injunction, order, or judgment. Upon receiving such notice, the
472 Chief Financial Officer shall timely inform all state agencies
473 that administer non-federal grant funding of the adjudicated
474 violation by the state entity, local governmental entity, or law
475 enforcement agency and direct such agencies to cancel all
476 pending grant applications and enforce the ineligibility of such
477 entity for the prescribed period.

478 (3) This subsection does not apply to:

479 (a) Funding that is received as a result of an
480 appropriation to a specifically named state entity, local
481 governmental entity, or law enforcement agency in the General
482 Appropriations Act or other law.

483 (b) Grants awarded prior to the date of adjudication that
484 such state entity, local governmental entity, or law enforcement
485 agency had in effect a sanctuary policy in violation of this
486 chapter.

487 PART IV

488 MISCELLANEOUS

489 908.401 Education records.—This chapter does not apply to
490 the release of information contained in education records of an
491 educational agency or institution, except in conformity with the
492 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
493 1232g.

494 908.402 Discrimination prohibited.—A state entity, a local

495 governmental entity, or a law enforcement agency, or a person
496 employed by or otherwise under the direction or control of such
497 an entity, may not base its actions under this chapter on the
498 gender, race, religion, national origin, or physical disability
499 of a person except to the extent permitted by the United States
500 Constitution or the state constitution.

501 Section 3. A sanctuary policy, as defined in s. 908.102,
502 Florida Statutes, as created by this act, that is in effect on
503 the effective date of this act must be repealed within 90 days
504 after that date.

505 Section 4. Sections 908.302 and 908.303, Florida Statutes,
506 as created by this act, shall take effect October 1, 2017, and,
507 except as otherwise expressly provided in this act, this act
508 shall take effect July 1, 2017.