



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:

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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 probable cause
87 to believe that the person to be detained is a removable alien
88 under federal immigration law, including detainers issued
89 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this
90 subsection, an immigration detainer is deemed facially
91 sufficient if:

92 (a) The federal immigration agency's official form is
93 complete and indicates on its face that the federal immigration
94 official has probable cause to believe that the person to be
95 detained is a removable alien under federal immigration law; 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 probable cause to believe that the
99 person to be detained is a removable alien under federal
100 immigration law, but is supported by an affidavit, order, or



101 other official documentation that indicates that the federal
102 immigration agency has probable cause to believe that the person
103 to be detained is a removable alien under federal immigration
104 law.

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

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

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

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



126 entity, or law enforcement agency from:

127 (a) Complying with an immigration detainer;

128 (b) Complying with a request from a federal immigration
129 agency to notify the agency before the release of an inmate or
130 detainee in the custody of the state entity, local governmental
131 entity, or law enforcement agency;

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

134 (d) Initiating an immigration status investigation; or

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

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

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

148 PART II

149 DUTIES

150 908.201 Sanctuary policies prohibited.—A state entity, law



151 enforcement agency, or local governmental entity may not adopt
152 or have in effect a sanctuary policy.

153 908.202 Cooperation with federal immigration authorities.-

154 (1) A state entity, local governmental entity, or law
155 enforcement agency shall fully comply with and, to the full
156 extent permitted by law, support the enforcement of federal
157 immigration law. This subsection is only applicable to an
158 official, representative, agent, or employee of such entity or
159 agency when he or she is acting within the scope of his or her
160 official duties or within the scope of his or her employment.

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

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

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

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

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



176 public benefit, service, or license pursuant to federal or state
177 law or an ordinance or regulation of a local governmental
178 entity.

179 (e) Using such information to verify a claim of residence
180 or domicile if a determination of residence or domicile is
181 required under federal or state law, an ordinance or regulation
182 of a local governmental entity, or a judicial order issued
183 pursuant to a civil or criminal proceeding in this state.

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

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

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

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

192 2. The judge:

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

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

197 (b) In a criminal case described by paragraph (a), the
198 judge shall, at the time of pronouncement of a sentence of
199 confinement, issue an order requiring the secure correctional
200 facility in which the defendant is to be confined to reduce the



201 defendant's sentence by a period of not more than 7 days on the
202 facility's determination that the reduction in sentence will
203 facilitate the seamless transfer of the defendant into federal
204 custody. For purposes of this paragraph, the term "secure
205 correctional facility" means a state correctional institution,
206 as defined in s. 944.02, or a county detention facility or a
207 municipal detention facility, as defined in s. 951.23.

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

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

223 (5) This section does not require a state entity, local
224 governmental entity, or law enforcement agency to provide a
225 federal immigration agency with information related to a victim



226 of or a witness to a criminal offense if such victim or witness
227 timely and in good faith responds to the entity's or agency's
228 request for information and cooperation in the investigation or
229 prosecution of such offense.

230 (6) A state entity, local governmental entity, or law
231 enforcement agency that, pursuant to subsection (5), withholds
232 information regarding the immigration information of a victim of
233 or witness to a criminal offense shall document such victim's or
234 witness's cooperation in the entity's or agency's investigative
235 records related to the offense and shall retain such records for
236 at least 10 years for the purpose of audit, verification, or
237 inspection by the Auditor General.

238 908.203 Duties related to certain arrested persons.-

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

244 (a) Review any information available from a federal
245 immigration agency.

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



251 1. Provide immediate notice of the person's arrest and
252 charges to a federal immigration agency.

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

255 3. Record that fact in the person's case file.

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

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

264 908.204 Duties related to immigration detainer.—

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

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

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

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

275 (2) A law enforcement agency is not required to perform a



276 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
277 respect to a person who is transferred to the custody of the
278 agency by another law enforcement agency if the transferring
279 agency performed that duty before transferring custody of the
280 person.

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

285 908.205 Reimbursement of costs.—

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

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

298 908.206 Duty to report.—

299 (1) An official, representative, agent, or employee of a
300 state entity, local governmental entity, or law enforcement



301 agency shall promptly report a known or probable violation of
302 this chapter to the Attorney General or the state attorney
303 having jurisdiction over the entity or agency.

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

310 (3) A state entity, local governmental entity, or law
311 enforcement agency may not dismiss, discipline, take any adverse
312 personnel action as defined in s. 112.3187(3) against, or take
313 any adverse action described in s. 112.3187(4) (b) against, an
314 official, representative, agent, or employee for complying with
315 subsection (1).

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

323 908.207 Implementation.—This chapter shall be implemented
324 to the fullest extent permitted by federal law regulating
325 immigration and the legislative findings and intent declared in



326 s. 908.101.

327 PART III

328 ENFORCEMENT

329 908.301 Complaints.—The Attorney General shall prescribe
330 and provide through the Department of Legal Affairs' website the
331 format for a person to submit a complaint alleging a violation
332 of this chapter. This section does not prohibit the filing of an
333 anonymous complaint or a complaint not submitted in the
334 prescribed format. Any person has standing to submit a complaint
335 under this chapter.

336 908.302 Enforcement; penalties.—

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

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

348 (b) If the state attorney determines that a complaint
349 filed against a state entity, local governmental entity, or law
350 enforcement agency is valid, the state attorney shall, not later



351 than the 10th day after the date of the determination, provide
352 written notification to the entity that:

353 1. The complaint has been filed.

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

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

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

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

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

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

374 (3) The Attorney General, the state attorney who conducted
375 the investigation, or a state attorney ordered by the Governor



376 pursuant to s. 27.14 may institute proceedings in circuit court
377 to enjoin a state entity, local governmental entity, or law
378 enforcement agency found to be in violation of this chapter. The
379 court shall expedite an action under this section, including
380 setting a hearing at the earliest practicable date.

381 (4) Upon adjudication by the court or as provided in a
382 consent decree declaring that a state entity, local governmental
383 entity, or law enforcement agency has violated this chapter, the
384 court shall enjoin the unlawful sanctuary policy and order that
385 such entity or agency pay a civil penalty to the state of at
386 least \$1,000 but not more than \$5,000 for each day that the
387 sanctuary policy was in effect commencing on October 1, 2017, or
388 the date the sanctuary policy was first enacted, whichever is
389 later, until the date the injunction was granted. The court
390 shall have continuing jurisdiction over the parties and subject
391 matter and may enforce its orders with imposition of additional
392 civil penalties as provided for in this section and contempt
393 proceedings as provided by law.

394 (5) An order approving a consent decree or granting an
395 injunction or civil penalties pursuant to subsection (4) must
396 include written findings of fact that describe with specificity
397 the existence and nature of the sanctuary policy in violation of
398 s. 908.201 and that identify each sanctuary policymaker who
399 voted for, allowed to be implemented, or voted against repeal or
400 prohibition of the sanctuary policy. The court shall provide a



401 copy of the consent decree or order granting an injunction or
402 civil penalties that contains the written findings required by
403 this subsection to the Governor within 30 days after the date of
404 rendition. A sanctuary policymaker identified in an order
405 approving a consent decree or granting an injunction or civil
406 penalties may be suspended or removed from office pursuant to
407 general law and s. 7, Art. IV of the State Constitution.

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

413 (7) Except as required by law, public funds may not be
414 used to defend or reimburse a sanctuary policymaker or an
415 official, representative, agent, or employee of a state entity,
416 local governmental entity, or law enforcement agency who
417 knowingly and willfully violates this chapter.

418 908.303 Civil cause of action for personal injury or
419 wrongful death attributed to a sanctuary policy; trial by jury;
420 required written findings.-

421 (1) A person injured in this state by the tortious acts or
422 omissions of an alien unlawfully present in the United States,
423 or the personal representative of a person killed in this state
424 by the tortious acts or omissions of an alien unlawfully present
425 in the United States, has a cause of action for damages against



426 a state entity, local governmental entity, or law enforcement
427 agency in violation of ss. 908.201 and 908.202 upon proof by the
428 greater weight of the evidence of:

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

431 (b)1. A failure to comply with a provision of s. 908.202
432 resulting in such alien's having access to the person injured or
433 killed when the tortious acts or omissions occurred; or

434 2. A failure to comply with a provision of s.
435 908.204(1)(c) resulting in such alien's having access to the
436 person injured or killed when the tortious acts or omissions
437 occurred.

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

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

445 (4) A final judgment entered in favor of a plaintiff in a
446 cause of action brought pursuant to this section must include
447 written findings of fact that describe with specificity the
448 existence and nature of the sanctuary policy in violation of s.
449 908.201 and that identify each sanctuary policymaker who voted
450 for, allowed to be implemented, or voted against repeal or



451 prohibition of the sanctuary policy. The court shall provide a
452 copy of the final judgment containing the written findings
453 required by this subsection to the Governor within 30 days after
454 the date of rendition. A sanctuary policymaker identified in a
455 final judgment may be suspended or removed from office pursuant
456 to general law and s. 7, Art. IV of the State Constitution.

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

461 908.304 Ineligibility for state grant funding.-

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

470 (2) The Chief Financial Officer shall be notified by the
471 state attorney of an adjudicated violation of this chapter by a
472 state entity, local governmental entity, or law enforcement
473 agency and be provided with a copy of the final court
474 injunction, order, or judgment. Upon receiving such notice, the
475 Chief Financial Officer shall timely inform all state agencies



476 that administer non-federal grant funding of the adjudicated
477 violation by the state entity, local governmental entity, or law
478 enforcement agency and direct such agencies to cancel all
479 pending grant applications and enforce the ineligibility of such
480 entity for the prescribed period.

481 (3) This subsection does not apply to:

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

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

490 PART IV

491 MISCELLANEOUS

492 908.401 Education records.—This chapter does not apply to
493 the release of information contained in education records of an
494 educational agency or institution, except in conformity with the
495 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
496 1232g.

497 908.402 Discrimination prohibited.—A state entity, a local
498 governmental entity, or a law enforcement agency, or a person
499 employed by or otherwise under the direction or control of such
500 an entity, may not base its actions under this chapter on the



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501 gender, race, religion, national origin, or physical disability
502 of a person except to the extent permitted by the United States
503 Constitution or the state constitution.

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

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