

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Byrd offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

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

Section 2. Chapter 908, Florida Statutes, consisting of sections 908.101-908.402, is created to read:

CHAPTER 908

FEDERAL IMMIGRATION ENFORCEMENT

PART I

FINDINGS AND DEFINITIONS

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13 908.101 Legislative findings and intent.—The Legislature  
14 finds that it is an important state interest to cooperate and  
15 assist the federal government in the enforcement of federal  
16 immigration laws within this state.

17 908.102 Definitions.—As used in this chapter, the term:

18 (1) "Federal immigration agency" means the United States  
19 Department of Justice and the United States Department of  
20 Homeland Security, a division within such an agency, including  
21 United States Immigration and Customs Enforcement and United  
22 States Customs and Border Protection, any successor agency, and  
23 any other federal agency charged with the enforcement of  
24 immigration law.

25 (2) "Immigration detainer" means a facially sufficient  
26 written or electronic request issued by a federal immigration  
27 agency using that agency's official form to request that another  
28 law enforcement agency detain a person based on probable cause  
29 to believe that the person to be detained is a removable alien  
30 under federal immigration law, including detainers issued  
31 pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant  
32 described in this subsection. For purposes of this subsection,  
33 an immigration detainer is deemed facially sufficient if the  
34 federal immigration agency supplies with its detention request a  
35 Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant  
36 of Removal/Deportation or a successor warrant or other warrant  
37 authorized by federal law and:

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38 (a) The federal immigration agency's official form is  
39 complete and indicates on its face that the federal immigration  
40 official has probable cause to believe that the person to be  
41 detained is a removable alien under federal immigration law; or

42 (b) The federal immigration agency's official form is  
43 incomplete and fails to indicate on its face that the federal  
44 immigration official has probable cause to believe that the  
45 person to be detained is a removable alien under federal  
46 immigration law, but is supported by an affidavit, order, or  
47 other official documentation that indicates that the federal  
48 immigration agency has probable cause to believe that the person  
49 to be detained is a removable alien under federal immigration  
50 law.

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

53 (4) "Law enforcement agency" means an agency in this state  
54 charged with enforcement of state, county, municipal, or federal  
55 laws or with managing custody of detained persons in the state  
56 and includes municipal police departments, sheriff's offices,  
57 state police departments, state university and college police  
58 departments, county correctional agencies, and the Department of  
59 Corrections.

60 (5) "Local governmental entity" means any county,  
61 municipality, or other political subdivision of this state.

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62 (6) "Sanctuary policy" means a law, policy, practice,  
63 procedure, or custom adopted or permitted by a state entity,  
64 local governmental entity, or law enforcement agency which  
65 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly  
66 prohibits or impedes a law enforcement agency from communicating  
67 or cooperating with a federal immigration agency with respect to  
68 federal immigration enforcement, including, but not limited to,  
69 limiting a law enforcement agency in, or prohibiting such agency  
70 from:

71 (a) Complying with an immigration detainer;

72 (b) Complying with a request from a federal immigration  
73 agency to notify the agency before the release of an inmate or  
74 detainee in the custody of the law enforcement agency;

75 (c) Providing a federal immigration agency access to an  
76 inmate for interview;

77 (d) Participating in any program or agreement authorized  
78 under s. 287 of the Immigration and Nationality Act, 8 U.S.C. s.  
79 1357; or

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

82 (7) "Sanctuary policymaker" means a state or local elected  
83 official or an appointed official of a local governmental entity  
84 governing body who has voted for, allowed to be implemented, or  
85 voted against repeal or prohibition of a sanctuary policy, or

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86 who willfully engages in a pattern of noncooperation with a  
87 federal immigration agency.

88 (8) "State entity" means the state or any office, board,  
89 bureau, commission, department, branch, division, or institution  
90 thereof, including institutions within the State University  
91 System and the Florida College System.

92 PART II

93 DUTIES

94 908.201 Sanctuary policies prohibited.—A state entity, law  
95 enforcement agency, or local governmental entity may not adopt  
96 or have in effect a sanctuary policy.

97 908.202 Cooperation with federal immigration authorities.—

98 (1) A law enforcement agency shall use best efforts to  
99 support the enforcement of federal immigration law. This  
100 subsection applies to an official, representative, agent, or  
101 employee of the entity or agency only when he or she is acting  
102 within the scope of his or her official duties or within the  
103 scope of his or her employment.

104 (2) Except as otherwise expressly prohibited by federal  
105 law, a state entity, local governmental entity, or law  
106 enforcement agency, or an employee, an agent, or a  
107 representative of the entity or agency, may not prohibit or in  
108 any way restrict a law enforcement agency from taking any of the  
109 following actions with respect to information regarding a  
110 person's immigration status:

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111 (a) Sending the information to or requesting, receiving,  
112 or reviewing the information from a federal immigration agency  
113 for purposes of this chapter.

114 (b) Recording and maintaining the information for purposes  
115 of this chapter.

116 (c) Exchanging the information with a federal immigration  
117 agency or another state entity, local governmental entity, or  
118 law enforcement agency for purposes of this chapter.

119 (d) Using the information to comply with an immigration  
120 detainer.

121 (e) Using the information to confirm the identity of a  
122 person who is detained by a law enforcement agency.

123 (3) (a) For purposes of this subsection the term  
124 "applicable criminal case" means a criminal case in which:

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

127 2. The judge:

128 a. Indicates in the record under s. 908.203 that the  
129 defendant is subject to an immigration detainer; or

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

132 (b) In an applicable criminal case, when the judge  
133 sentences a defendant who is the subject of an immigration  
134 detainer to confinement, the judge shall issue an order  
135 requiring the secure correctional facility in which the

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136 defendant is to be confined to reduce the defendant's sentence  
137 by a period of not more than 12 days on the facility's  
138 determination that the reduction in sentence will facilitate the  
139 seamless transfer of the defendant into federal custody. For  
140 purposes of this paragraph, the term "secure correctional  
141 facility" means a state correctional institution as defined in  
142 s. 944.02 or a county detention facility or a municipal  
143 detention facility as defined in s. 951.23.

144 (c) If the information specified in sub-subparagraph  
145 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
146 the sentence is pronounced in the case, but is received by a law  
147 enforcement agency afterwards, the law enforcement agency shall  
148 notify the judge who shall issue the order described by  
149 paragraph (b) as soon as the information becomes available.

150 (4) When a county correctional facility or the Department  
151 of Corrections receives verification from a federal immigration  
152 agency that a person subject to an immigration detainer is in  
153 the law enforcement agency's custody, the agency may securely  
154 transport the person to a federal facility in this state or to  
155 another point of transfer to federal custody outside the  
156 jurisdiction of the law enforcement agency. The law enforcement  
157 agency may transfer a person who is subject to an immigration  
158 detainer and is confined in a secure correctional facility to  
159 the custody of a federal immigration agency not earlier than 12  
160 days before his or her release date. A law enforcement agency

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161 shall obtain judicial authorization before securely transporting  
162 an alien to a point of transfer outside of this state.

163 (5) This section does not require a state entity, local  
164 governmental entity, or law enforcement agency to provide a  
165 federal immigration agency with information related to a victim  
166 of or a witness to a criminal offense if the victim or witness  
167 timely and in good faith responds to the entity's or agency's  
168 request for information and cooperation in the investigation or  
169 prosecution of the offense.

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

178 908.203 Duties related to immigration detainers.—

179 (1) A law enforcement agency that has custody of a person  
180 subject to an immigration detainer issued by a federal  
181 immigration agency shall:

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

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

187 (c) Upon determining that the immigration detainer is in  
188 accordance with s. 908.102(2), comply with the requests made in  
189 the immigration detainer.

190 (2) A law enforcement agency is not required to perform a  
191 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
192 respect to a person who is transferred to the custody of the  
193 agency by another law enforcement agency if the transferring  
194 agency performed that duty before the transfer.

195 (3) A judge who receives notice that a person is subject  
196 to an immigration detainer shall cause the fact to be recorded  
197 in the court record, regardless of whether the notice is  
198 received before or after a judgment in the case.

199 908.204 Reimbursement of costs.—Each county correctional  
200 facility shall enter into an agreement or agreements with a  
201 federal immigration agency for temporarily housing persons who  
202 are the subject of immigration detainers and for the payment of  
203 the costs of housing and detaining those persons. A compliant  
204 agreement may include any contract between a correctional  
205 facility and a federal immigration agency for housing or  
206 detaining persons subject to immigration detainers, such as  
207 basic ordering agreements in effect on or after July 1, 2019,  
208 agreements authorized by s. 287 of the Immigration and

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209 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and  
210 other similar agreements authorized by federal law.

211 PART III

212 ENFORCEMENT

213 908.301 Complaints.—The Attorney General shall prescribe  
214 and provide through the Department of Legal Affairs' website the  
215 format for a person to submit a complaint alleging a violation  
216 of this chapter. This section does not prohibit the filing of an  
217 anonymous complaint or a complaint not submitted in the  
218 prescribed format. Any person has standing to submit a complaint  
219 under this chapter.

220 908.302 Enforcement; penalties.—

221 (1) The state attorney for the county in which a state  
222 entity is headquartered or in which a local governmental entity  
223 or law enforcement agency is located has primary responsibility  
224 and authority for investigating credible complaints of a  
225 violation of this chapter. The results of an investigation by a  
226 state attorney shall be provided to the Attorney General in a  
227 timely manner.

228 (2) (a) A state entity, local governmental entity, or law  
229 enforcement agency for which the state attorney has received a  
230 complaint shall comply with a document request from the state  
231 attorney related to the complaint.

232 (b) If the state attorney determines that a complaint  
233 filed against a state entity, local governmental entity, or law

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234 enforcement agency is valid, the state attorney shall, not later  
235 than the 10th day after the date of the determination, provide  
236 written notification to the entity that:

237 1. The complaint has been filed.

238 2. The state attorney has determined that the complaint is  
239 valid.

240 3. Any executive or administrative state, county, or  
241 municipal officer who violates his duties under this chapter may  
242 be subject to actions taken by the Governor in exercise of his  
243 authority under the State Constitution and Florida law. As  
244 provided in s. 1(b), Art. IV, of the State Constitution, the  
245 Governor may, in his discretion, initiate judicial proceedings  
246 in the name of the state against such officers to enforce  
247 compliance with any duty under this chapter or restrain any  
248 unauthorized act contrary to this chapter.

249 4. In addition, the state attorney or Attorney General may  
250 file suit against any local government entity or law enforcement  
251 agency for declaratory and injunctive relief caused by a  
252 violation of this chapter.

253 (c) No later than the 30th day after the day a state  
254 entity or local governmental entity receives written  
255 notification under paragraph (b), the state entity or local  
256 governmental entity shall provide the state attorney with a copy  
257 of:

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258 1. The entity's written policies and procedures with  
259 respect to federal immigration agency enforcement actions,  
260 including the entity's policies and procedures with respect to  
261 immigration detainers.

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

265 3. Each response sent by the entity for an immigration  
266 detainer described by subparagraph 2.

267 (3) As provided in s. 1(b), Art. IV, of the State  
268 Constitution, the Governor may, in his discretion, initiate  
269 judicial proceedings in the name of the state against such  
270 officers to enforce compliance with any duty under this chapter  
271 or restrain any unauthorized act contrary to this chapter. The  
272 Attorney General, the state attorney who conducted the  
273 investigation, or a state attorney ordered by the Governor  
274 pursuant to s. 27.14 may institute proceedings in circuit court  
275 to enjoin a state entity, local governmental entity, or law  
276 enforcement agency found to be in violation of this chapter.  
277 Venue of an action brought by the Attorney General may be in  
278 Leon County. The court shall expedite an action under this  
279 section, including setting a hearing at the earliest practicable  
280 date.

281 (4) Upon adjudication by the court or as provided in a  
282 consent decree declaring that an officer, state entity, local

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283 governmental entity, or law enforcement agency has violated this  
284 chapter, the court shall enjoin the unlawful sanctuary policy  
285 and order that such entity or agency pay a civil penalty to the  
286 state of at least \$1,000 but not more than \$5,000 for each day  
287 that the sanctuary policy was in effect commencing on October 1,  
288 2019, or the date the sanctuary policy was first enacted,  
289 whichever is later, until the date the injunction was granted.  
290 The court shall have continuing jurisdiction over the parties  
291 and subject matter and may enforce its orders with imposition of  
292 additional civil penalties as provided for in this section and  
293 contempt proceedings as provided by law.

294 (5) An order approving a consent decree or granting an  
295 injunction or civil penalties pursuant to subsection (4) must  
296 include written findings of fact that describe with specificity  
297 the existence and nature of the sanctuary policy in violation of  
298 s. 908.201 and that identify each sanctuary policymaker who  
299 voted for, allowed to be implemented, or voted against repeal or  
300 prohibition of the sanctuary policy, or who willfully engaged in  
301 a pattern of noncooperation with a federal immigration agency.  
302 The court shall provide a copy of the consent decree or order  
303 granting an injunction or civil penalties that contains the  
304 written findings required by this subsection to the Governor  
305 within 30 days after the date of rendition. Any executive or  
306 administrative state, county, or municipal officer who violates  
307 his duties under this chapter may be subject to actions taken by

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308 the Governor in exercise of his authority under the State  
309 Constitution and Florida law.

310 (6) A state entity, local governmental entity, or law  
311 enforcement agency ordered to pay a civil penalty pursuant to  
312 subsection (4) shall remit payment to the Chief Financial  
313 Officer, who shall deposit such payment into the General Revenue  
314 Fund.

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

320 908.303 Civil cause of action for personal injury or  
321 wrongful death attributed to a sanctuary policy; trial by jury;  
322 required written findings.-

323 (1) A person injured in this state by the tortious acts or  
324 omissions of an alien unlawfully present in the United States,  
325 or the personal representative of a person killed in this state  
326 by the tortious acts or omissions of an alien unlawfully present  
327 in the United States, has a cause of action for damages against  
328 a state entity, local governmental entity, or law enforcement  
329 agency in violation of ss. 908.201 and 908.202 upon proof by the  
330 greater weight of the evidence of:

331 (a) The existence of a sanctuary policy in violation of s.  
332 908.201; and

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

336 2. A failure to comply with a provision of s.  
337 908.203(1)(c) resulting in such alien's having access to the  
338 person injured or killed when the tortious acts or omissions  
339 occurred.

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

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

347 (4) A final judgment entered in favor of a plaintiff in a  
348 cause of action brought pursuant to this section must include  
349 written findings of fact that describe with specificity the  
350 existence and nature of the sanctuary policy in violation of s.  
351 908.201 and that identify each sanctuary policymaker who voted  
352 for, allowed to be implemented, or voted against repeal or  
353 prohibition of the sanctuary policy, or who willfully engaged in  
354 a pattern of noncooperation with a federal immigration agency.  
355 The court shall provide a copy of the final judgment containing  
356 the written findings required by this subsection to the Governor  
357 within 30 days after the date of rendition. A sanctuary

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358 policymaker identified in a final judgment may be suspended or  
359 removed from office pursuant to general law and s. 7, Art. IV of  
360 the State Constitution.

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

365 908.304 Ineligibility for state grant funding.-

366 (1) Notwithstanding any other provision of law, a state  
367 entity, local governmental entity, or law enforcement agency  
368 shall be ineligible to receive funding from non-federal grant  
369 programs administered by state agencies that receive funding  
370 from the General Appropriations Act for a period of 5 years from  
371 the date of adjudication that such state entity, local  
372 governmental entity, or law enforcement agency had in effect a  
373 sanctuary policy in violation of this chapter.

374 (2) The Chief Financial Officer shall be notified by the  
375 state attorney of an adjudicated violation of this chapter by a  
376 state entity, local governmental entity, or law enforcement  
377 agency and be provided with a copy of the final court  
378 injunction, order, or judgment. Upon receiving such notice, the  
379 Chief Financial Officer shall timely inform all state agencies  
380 that administer non-federal grant funding of the adjudicated  
381 violation by the state entity, local governmental entity, or law  
382 enforcement agency and direct such agencies to cancel all

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383 pending grant applications and enforce the ineligibility of such  
384 entity for the prescribed period.

385 (3) This subsection does not apply to:

386 (a) Funding that is received as a result of an  
387 appropriation to a specifically named state entity, local  
388 governmental entity, or law enforcement agency in the General  
389 Appropriations Act or other law.

390 (b) Grants awarded before the date of adjudication that  
391 such state entity, local governmental entity, or law enforcement  
392 agency had in effect a sanctuary policy in violation of this  
393 chapter.

394 PART IV

395 MISCELLANEOUS

396 908.401 Education records.—This chapter does not apply to  
397 the release of information contained in education records of an  
398 educational agency or institution, except in conformity with the  
399 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
400 1232g.

401 908.402 Discrimination prohibited.—A state entity, a local  
402 governmental entity, or a law enforcement agency, or a person  
403 employed by or otherwise under the direction or control of such  
404 an entity, may not base its actions under this chapter on the  
405 gender, race, religion, national origin, or physical disability  
406 of a person except to the extent permitted by the United States  
407 Constitution or the state constitution.

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

412           Section 4. Sections 908.302 and 908.303, Florida Statutes,  
 413 as created by this act, shall take effect October 1, 2019, and,  
 414 except as otherwise expressly provided in this act, this act  
 415 shall take effect July 1, 2019.

416

417 -----

418                                   **T I T L E   A M E N D M E N T**

419           Remove everything before the enacting clause and insert:

420

421                                   A bill to be entitled

422           An act relating to federal immigration enforcement;  
 423 providing a short title; creating chapter 908, F.S.,  
 424 relating to federal immigration enforcement; providing  
 425 legislative findings and intent; providing  
 426 definitions; prohibiting sanctuary policies; requiring  
 427 state entities, local governmental entities, and law  
 428 enforcement agencies to use best efforts to support  
 429 the enforcement of federal immigration law;  
 430 prohibiting restrictions by the entities and agencies  
 431 on taking certain actions with respect to information  
 432 regarding a person's immigration status; defining the

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433 terms "applicable criminal case" and "secure  
434 correctional facility"; providing requirements  
435 concerning certain criminal defendants subject to  
436 immigration detainers or otherwise subject to transfer  
437 to federal custody; authorizing a law enforcement  
438 agency to transport an alien unlawfully present in the  
439 United States under certain circumstances; providing  
440 an exception to reporting requirements; requiring  
441 recordkeeping in certain investigations; specifying  
442 duties concerning immigration detainers; requiring  
443 county correctional facilities to enter into  
444 agreements for payments for complying with immigration  
445 detainers; requiring the Attorney General to prescribe  
446 the format for submitting complaints; providing  
447 requirements for entities to comply with document  
448 requests from state attorneys concerning violations;  
449 providing for investigation of possible violations;  
450 providing for injunctive relief and civil penalties;  
451 providing for venue; requiring written findings;  
452 prohibiting the expenditure of public funds for  
453 specified purposes; providing a cause of action for  
454 personal injury or wrongful death attributed to a  
455 sanctuary policy; providing that a trial by jury is a  
456 matter of right; requiring written findings; providing  
457 for applicability to certain education records;

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458 | prohibiting discrimination on specified grounds;  
459 | providing for implementation; requiring repeal of  
460 | existing sanctuary policies within a specified period;  
461 | providing effective dates.

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