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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete 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

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11 PART I

12 FINDINGS AND INTENT AND DEFINITIONS

13 908.101 Legislative findings and intent.—The Legislature  
14 finds that it is an important state interest that state entities  
15 and their officials have an affirmative duty to all citizens and  
16 other persons lawfully present in the United States to assist  
17 the Federal Government in the enforcement of federal immigration  
18 laws within this state, including their compliance with federal  
19 immigration detainers. The Legislature further finds that it is  
20 an important state interest that, in the interest of public  
21 safety and adherence to federal law, this state support federal  
22 immigration enforcement efforts and ensure that such efforts are  
23 not impeded or thwarted by state laws, policies, practices,  
24 procedures, or customs. State entities and their officials who  
25 encourage persons unlawfully present in the United States to  
26 locate within this state or who shield such persons from  
27 personal responsibility for their unlawful actions breach this  
28 duty and should be held accountable.

29 908.102 Definitions.—As used in this chapter, the term:

30 (1) "Federal immigration agency" means the United States  
31 Department of Justice and the United States Department of  
32 Homeland Security, a division within such an agency, including  
33 United States Immigration and Customs Enforcement and United  
34 States Customs and Border Protection, any successor agency, and  
35 any other federal agency charged with the enforcement of  
36 immigration law. The term includes an official or employee of  
37 such an agency.

38 (2) "Immigration detainer" means a facially sufficient  
39 written or electronic request issued by a federal immigration



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40 agency using that agency's official form to request that another  
41 law enforcement agency detain a person based on probable cause  
42 to believe that the person to be detained is a removable alien  
43 under federal immigration law, including detainers issued  
44 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this  
45 subsection, an immigration detainer is deemed facially  
46 sufficient if:

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

51 (b) The federal immigration agency's official form is  
52 incomplete and fails to indicate on its face that the federal  
53 immigration official has probable cause to believe that the  
54 person to be detained is a removable alien under federal  
55 immigration law, but is supported by an affidavit, order, or  
56 other official documentation that indicates that the federal  
57 immigration agency has probable cause to believe that the person  
58 to be detained is a removable alien under federal immigration  
59 law.

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

62 (4) "Law enforcement agency" means an agency in this state  
63 charged with enforcement of state or federal laws or with  
64 managing custody of detained persons in the state and includes  
65 state police departments and the Department of Corrections. The  
66 term includes an official or employee of such an agency.

67 (5) "Sanctuary policy" means a law, policy, practice,  
68 procedure, or custom adopted or permitted by a state entity or



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69 law enforcement agency which contravenes 8 U.S.C. s. 1373(a) or  
70 (b) or which knowingly prohibits or impedes a law enforcement  
71 agency from communicating or cooperating with a federal  
72 immigration agency with respect to federal immigration  
73 enforcement, including, but not limited to, limiting a state  
74 entity or law enforcement agency in, or prohibiting such an  
75 entity or agency from:

76 (a) Complying with an immigration detainer;

77 (b) Complying with a request from a federal immigration  
78 agency to notify the agency before the release of an inmate or  
79 detainee in the custody of the state entity or law enforcement  
80 agency;

81 (c) Providing a federal immigration agency access to an  
82 inmate for interview;

83 (d) Initiating an immigration status investigation; or

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

86 (6) "Sanctuary policymaker" means a state official who has  
87 voted for, allowed to be implemented, or voted against repeal or  
88 prohibition of a sanctuary policy.

89 (7) "State entity" means the state or any office, board,  
90 bureau, commission, department, branch, division, or institution  
91 thereof. The term includes a person holding public office or  
92 having official duties as a representative, agent, or employee  
93 of such entity.

94 PART II

95 DUTIES

96 908.201 Sanctuary policies prohibited.—A state entity or  
97 law enforcement agency may not adopt or have in effect a



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98 sanctuary policy.

99 908.202 Cooperation with federal immigration authorities.—

100 (1) A state entity or law enforcement agency shall fully  
101 comply with and, to the full extent permitted by law, support  
102 the enforcement of federal immigration law. This subsection  
103 applies to an official, representative, agent, or employee of  
104 such entity or agency only when he or she is acting within the  
105 scope of his or her official duties or within the scope of his  
106 or her employment.

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

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

115 (b) Recording and maintaining such information for purposes  
116 of this chapter.

117 (c) Exchanging such information with a federal immigration  
118 agency or another state entity or law enforcement agency for  
119 purposes of this chapter.

120 (d) Using such information to determine eligibility for a  
121 public benefit, service, or license pursuant to federal or state  
122 law.

123 (e) Using such information to verify a claim of residence  
124 or domicile if a determination of residence or domicile is  
125 required under federal or state law or a judicial order issued  
126 pursuant to a civil or criminal proceeding in this state.



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127 (f) Using such information to comply with an immigration  
128 detainer.

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

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

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

135 2. The judge:

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

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

140 (b) In an applicable criminal case, at the time of  
141 pronouncement of a sentence of confinement, the judge shall  
142 issue an order requiring the secure correctional facility in  
143 which the defendant is to be confined to reduce the defendant's  
144 sentence by a period of not more than 7 days on the facility's  
145 determination that the reduction in sentence will facilitate the  
146 seamless transfer of the defendant into federal custody. For  
147 purposes of this paragraph, the term "secure correctional  
148 facility" means a state correctional institution as defined in  
149 s. 944.02.

150 (c) If the information specified in sub-subparagraph  
151 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
152 the sentence is pronounced in the case, the judge shall issue  
153 the order described by paragraph (b) as soon as the information  
154 becomes available.

155 (4) Notwithstanding any other provision of law, if a law



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156 enforcement agency has received verification from a federal  
157 immigration agency that an alien in the law enforcement agency's  
158 custody is unlawfully present in the United States, the law  
159 enforcement agency may securely transport such alien to a  
160 federal facility in this state or to another point of transfer  
161 to federal custody outside the jurisdiction of the law  
162 enforcement agency. A law enforcement agency shall obtain  
163 judicial authorization before securely transporting such alien  
164 to a point of transfer outside of this state.

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

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

179 908.203 Duties related to certain arrested persons.-

180 (1) If a person is arrested and is unable to provide proof  
181 of his or her lawful presence in the United States, not later  
182 than 48 hours after the person is arrested, and before the  
183 person is released on bond, a law enforcement agency performing  
184 the booking process:



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185       (a) Shall review any information available from a federal  
186 immigration agency.

187       (b) If information obtained under paragraph (a) reveals  
188 that the person is not a citizen of the United States and is  
189 unlawfully present in the United States according to the terms  
190 of the federal Immigration and Nationality Act, 8 U.S.C. ss.  
191 1101 et seq., must:

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

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

196       3. Record the person's arrest and charges in the person's  
197 case file.

198       (2) A law enforcement agency is not required to perform the  
199 duty imposed by subsection (1) with respect to a person who is  
200 transferred to the custody of the agency by another law  
201 enforcement agency if the transferring agency performed that  
202 duty before the transfer.

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

206       908.204 Duties related to immigration detainers.—

207       (1) A law enforcement agency that has custody of a person  
208 subject to an immigration detainer issued by a federal  
209 immigration agency shall:

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

213       (b) Record in the person's case file that the person is



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214 subject to an immigration detainer.

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

217 (2) A law enforcement agency is not required to perform a  
218 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
219 respect to a person who is transferred to the custody of the  
220 agency by another law enforcement agency if the transferring  
221 agency performed that duty before the transfer.

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

226 908.205 Reimbursement of costs.—A state entity or law  
227 enforcement agency may petition the Federal Government for  
228 reimbursement of the entity's or agency's detention costs and  
229 the costs of compliance with federal requests when such costs  
230 are incurred in support of the enforcement of federal  
231 immigration law.

232 908.206 Duty to report.—

233 (1) An official, representative, agent, or employee of a  
234 state entity or law enforcement agency shall promptly report a  
235 known or probable violation of this chapter to the Attorney  
236 General or the state attorney having jurisdiction over the  
237 entity or agency.

238 (2) An official, representative, agent, or employee of a  
239 state entity or law enforcement agency who willfully and  
240 knowingly fails to report a known or probable violation of this  
241 chapter may be suspended or removed from office pursuant to  
242 general law and s. 7, Art. IV of the State Constitution.



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243 (3) A state entity or law enforcement agency may not  
244 dismiss, discipline, take any adverse personnel action as  
245 defined in s. 112.3187(3) against, or take any adverse action  
246 described in s. 112.3187(4)(b) against, an official,  
247 representative, agent, or employee for complying with subsection  
248 (1).

249 (4) Section 112.3187 of the Whistle-blower's Act applies to  
250 an official, representative, agent, or employee of a state  
251 entity or law enforcement agency who is dismissed, disciplined,  
252 subject to any adverse personnel action as defined in s.  
253 112.3187(3) or any adverse action described in s.  
254 112.3187(4)(b), or denied employment because he or she complied  
255 with subsection (1).

256 908.207 Implementation.—This chapter shall be implemented  
257 to the fullest extent permitted by federal law regulating  
258 immigration and the legislative findings and intent declared in  
259 s. 908.101.

260 PART III

261 ENFORCEMENT

262 908.301 Complaints.—The Attorney General shall prescribe  
263 and provide through the Department of Legal Affairs' website the  
264 format for a person to submit a complaint alleging a violation  
265 of this chapter. This section does not prohibit the filing of an  
266 anonymous complaint or a complaint not submitted in the  
267 prescribed format. Any person has standing to submit a complaint  
268 under this chapter.

269 908.302 Enforcement; penalties.—

270 (1) The state attorney for the county in which a state  
271 entity is headquartered or a law enforcement agency is located



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272 has primary responsibility and authority for investigating  
273 credible complaints of a violation of this chapter. The results  
274 of an investigation by a state attorney shall be provided to the  
275 Attorney General in a timely manner.

276 (2) (a) A state entity or law enforcement agency about which  
277 the state attorney has received a complaint shall comply with a  
278 document request from the state attorney related to the  
279 complaint.

280 (b) If the state attorney determines that a complaint filed  
281 against a state entity or law enforcement agency is valid, the  
282 state attorney shall, not later than the 10th day after the date  
283 of the determination, provide written notification to the entity  
284 or agency that:

285 1. The complaint has been filed.

286 2. The state attorney has determined that the complaint is  
287 valid.

288 3. The state attorney is authorized to file an action to  
289 enjoin the violation if the entity or agency does not come into  
290 compliance with the requirements of this chapter on or before  
291 the 60th day after the notification is provided.

292 (c) Not later than the 30th day after the day a state  
293 entity or law enforcement agency receives written notification  
294 under paragraph (b), the entity or the agency shall provide the  
295 state attorney with a copy of:

296 1. The entity's or agency's written policies and procedures  
297 with respect to federal immigration agency enforcement actions,  
298 including the entity's or agency's policies and procedures with  
299 respect to immigration detainees.

300 2. Each immigration detainer received by the entity or



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301 agency from a federal immigration agency in the current calendar  
302 year-to-date and the 2 prior calendar years.

303 3. Each response sent by the entity or agency for an  
304 immigration detainer described by subparagraph 2.

305 (3) The Attorney General, the state attorney who conducted  
306 the investigation, or a state attorney so ordered by the  
307 Governor pursuant to s. 27.14 may institute proceedings in  
308 circuit court to enjoin a state entity or law enforcement agency  
309 found to be in violation of this chapter. Venue of an action  
310 brought by the Attorney General may be in Leon County. The court  
311 shall expedite an action under this section, including setting a  
312 hearing at the earliest practicable date.

313 (4) Upon adjudication by the court or as provided in a  
314 consent decree declaring that a state entity or law enforcement  
315 agency has violated this chapter, the court shall enjoin the  
316 unlawful sanctuary policy and order that such entity or agency  
317 pay a civil penalty to the state of at least \$1,000 but not more  
318 than \$5,000 for each day that the sanctuary policy was in effect  
319 commencing on October 1, 2019, or the date the sanctuary policy  
320 was first enacted, whichever is later, until the date the  
321 injunction was granted. The court has continuing jurisdiction  
322 over the parties and subject matter and may enforce its orders  
323 with the imposition of additional civil penalties as provided  
324 for in this section and the initiation of contempt proceedings  
325 as provided by law.

326 (5) An order approving a consent decree or granting an  
327 injunction or imposing civil penalties pursuant to subsection  
328 (4) must include written findings of fact that describe with  
329 specificity the existence and nature of the sanctuary policy



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330 that is in violation of s. 908.201 and identify each sanctuary  
331 policymaker who voted for, allowed to be implemented, or voted  
332 against repeal or prohibition of the sanctuary policy. The court  
333 shall provide to the Governor a copy of the consent decree or  
334 order granting an injunction or imposing civil penalties which  
335 contains the written findings required by this subsection within  
336 30 days after the date of rendition. A sanctuary policymaker  
337 identified in an order approving a consent decree or granting an  
338 injunction or imposing civil penalties may be suspended or  
339 removed from office pursuant to general law and s. 7, Art. IV of  
340 the State Constitution.

341 (6) A state entity or law enforcement agency ordered to pay  
342 a civil penalty pursuant to subsection (4) shall remit such  
343 payment to the Chief Financial Officer, who shall deposit it  
344 into the General Revenue Fund.

345 (7) Except as required by law, public funds may not be used  
346 to defend or reimburse a sanctuary policymaker or an official,  
347 representative, agent, or employee of a state entity or law  
348 enforcement agency who knowingly and willfully violates this  
349 chapter.

350 908.303 Civil cause of action for personal injury or  
351 wrongful death attributed to a sanctuary policy; trial by jury;  
352 required written findings.-

353 (1) A person injured in this state by the tortious acts or  
354 omissions of an alien unlawfully present in the United States,  
355 or the personal representative of a person killed in this state  
356 by the tortious acts or omissions of an alien unlawfully present  
357 in the United States, has a cause of action for damages against  
358 a state entity or law enforcement agency in violation of ss.



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359 908.201 and 908.202 upon proof by the greater weight of the  
360 evidence of:  
361 (a) The existence of a sanctuary policy in violation of s.  
362 908.201; and  
363 (b)1. A failure to comply with s. 908.202 which results in  
364 such alien's having access to the person injured or killed when  
365 the tortious acts or omissions occurred; or  
366 2. A failure to comply with s. 908.204(1)(c) which results  
367 in such alien's having access to the person injured or killed  
368 when the tortious acts or omissions occurred.  
369 (2) A cause of action brought pursuant to subsection (1)  
370 may not be brought against a person who holds public office or  
371 who has official duties as a representative, agent, or employee  
372 of a state entity or law enforcement agency, including a  
373 sanctuary policymaker.  
374 (3) Trial by jury is a matter of right in an action brought  
375 under this section.  
376 (4) A final judgment entered in favor of a plaintiff in a  
377 cause of action brought pursuant to this section must include  
378 written findings of fact that describe with specificity the  
379 existence and nature of the sanctuary policy that is in  
380 violation of s. 908.201 and that identify each sanctuary  
381 policymaker who voted for, allowed to be implemented, or voted  
382 against repeal or prohibition of the sanctuary policy. The court  
383 shall provide a copy of the final judgment containing the  
384 written findings required by this subsection to the Governor  
385 within 30 days after the date of rendition. A sanctuary  
386 policymaker identified in a final judgment may be suspended or  
387 removed from office pursuant to general law and s. 7, Art. IV of



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388 the State Constitution.

389 (5) Except as provided in this section, this chapter does  
390 not create a private cause of action against a state entity or  
391 law enforcement agency that complies with this chapter.

392 908.304 Ineligibility for state grant funding.-

393 (1) Notwithstanding any other provision of law, a state  
394 entity or law enforcement agency is ineligible to receive  
395 funding from nonfederal grant programs administered by state  
396 agencies that receive funding from the General Appropriations  
397 Act for a period of 5 years after the date of adjudication that  
398 such state entity or law enforcement agency had in effect a  
399 sanctuary policy in violation of this chapter.

400 (2) The applicable state attorney shall notify the Chief  
401 Financial Officer of an adjudicated violation of this chapter by  
402 a state entity or law enforcement agency and shall provide him  
403 or her a copy of the final court injunction, order, or judgment.  
404 Upon receiving such notice, the Chief Financial Officer shall  
405 timely inform all state agencies that administer nonfederal  
406 grant funding of the adjudicated violation by the state entity  
407 or law enforcement agency and direct such agencies to cancel all  
408 pending grant applications and enforce the ineligibility of such  
409 entity for the prescribed period.

410 (3) This subsection does not apply to:

411 (a) Funding that is received as a result of an  
412 appropriation to a specifically named state entity or law  
413 enforcement agency in the General Appropriations Act or other  
414 law.

415 (b) Grants awarded prior to the date of adjudication that  
416 such state entity or law enforcement agency had in effect a



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417 sanctuary policy in violation of this chapter.

418 PART IV

419 MISCELLANEOUS

420 908.401 Education records.—This chapter does not apply to  
421 the release of information contained in education records of an  
422 educational agency or institution, except in conformity with the  
423 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
424 1232g.

425 908.402 Discrimination prohibited.—A state entity or a law  
426 enforcement agency, or a person employed by or otherwise under  
427 the direction or control of such an entity or agency, may not  
428 base its actions under this chapter on the gender, race,  
429 religion, national origin, or physical disability of a person  
430 except to the extent authorized by the United States  
431 Constitution or the State Constitution.

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

436 Section 4. Sections 908.302 and 908.303, Florida Statutes,  
437 as created by this act, shall take effect October 1, 2019, and,  
438 except as otherwise expressly provided in this act, this act  
439 shall take effect July 1, 2019.

441 ===== T I T L E A M E N D M E N T =====

442 And the title is amended as follows:

443 Delete everything before the enacting clause  
444 and insert:

445 A bill to be entitled



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446 An act relating to federal immigration enforcement;  
447 providing a short title; creating chapter 908, F.S.,  
448 relating to federal immigration enforcement; providing  
449 legislative findings and intent; providing  
450 definitions; prohibiting sanctuary policies; requiring  
451 state entities and law enforcement agencies to comply  
452 with and support the enforcement of federal  
453 immigration law; prohibiting restrictions by such  
454 entities and agencies on taking certain actions with  
455 respect to information regarding a person's  
456 immigration status; providing requirements concerning  
457 certain criminal defendants subject to immigration  
458 detainers or otherwise subject to transfer to federal  
459 custody; authorizing a law enforcement agency to  
460 transport an alien unlawfully present in the United  
461 States under certain circumstances; providing an  
462 exception to reporting requirements for crime victims  
463 or witnesses; requiring recordkeeping relating to  
464 crime victim and witness cooperation in certain  
465 investigations; specifying duties concerning certain  
466 arrested persons; specifying duties concerning  
467 immigration detainers; authorizing state entities or  
468 law enforcement agencies to petition the Federal  
469 Government for reimbursement of certain costs;  
470 requiring reports of violations; providing penalties  
471 for failure to report violations; providing whistle-  
472 blower protections for persons who report violations;  
473 requiring the Attorney General to prescribe and  
474 provide the format for submitting complaints;



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475 providing requirements for entities to comply with  
476 document requests from state attorneys concerning  
477 violations; providing for investigation of possible  
478 violations; providing for injunctive relief and civil  
479 penalties; providing for venue; requiring written  
480 findings; prohibiting the expenditure of public funds  
481 for specified purposes; providing a civil cause of  
482 action for personal injury or wrongful death  
483 attributed to a sanctuary policy; providing that a  
484 trial by jury is a matter of right; requiring written  
485 findings; providing for ineligibility to receive  
486 certain funding for a specified period of time;  
487 providing for applicability to certain education  
488 records; prohibiting discrimination on specified  
489 grounds; providing for implementation; requiring  
490 repeal of existing sanctuary policies within a  
491 specified period; providing effective dates.