

By Senator Bean

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1 A bill to be entitled
2 An act relating to federal immigration enforcement;
3 providing a short title; creating chapter 908, F.S.,
4 relating to federal immigration enforcement; providing
5 legislative findings and intent; providing
6 definitions; prohibiting sanctuary policies; requiring
7 state entities, local governmental entities, and law
8 enforcement agencies to comply with and support the
9 enforcement of federal immigration law; prohibiting
10 restrictions by such entities and agencies on taking
11 certain actions with respect to information regarding
12 a person's immigration status; providing requirements
13 concerning certain criminal defendants subject to
14 immigration detainers or otherwise subject to transfer
15 to federal custody; authorizing a law enforcement
16 agency to transport an alien unlawfully present in the
17 United States under certain circumstances; providing
18 an exception to reporting requirements for crime
19 victims or witnesses; requiring recordkeeping relating
20 to crime victim and witness cooperation in certain
21 investigations; specifying duties concerning certain
22 arrested persons; specifying duties concerning
23 immigration detainers; authorizing a board of county
24 commissioners to adopt an ordinance to recover costs
25 for complying with an immigration detainer;
26 authorizing local governmental entities and law
27 enforcement agencies to petition the Federal
28 Government for reimbursement of certain costs;
29 requiring reports of violations; providing penalties

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

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Short title.—This act may be cited as the “Rule
55 of Law Adherence Act.”

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

58 CHAPTER 908

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FEDERAL IMMIGRATION ENFORCEMENTPART IFINDINGS AND INTENT AND DEFINITIONS

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

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

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

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88 (2) "Immigration detainer" means a facially sufficient
89 written or electronic request issued by a federal immigration
90 agency using that agency's official form to request that another
91 law enforcement agency detain a person based on probable cause
92 to believe that the person to be detained is a removable alien
93 under federal immigration law, including detainers issued
94 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this
95 subsection, an immigration detainer is deemed facially
96 sufficient if:

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

101 (b) The federal immigration agency's official form is
102 incomplete and fails to indicate on its face that the federal
103 immigration official has probable cause to believe that the
104 person to be detained is a removable alien under federal
105 immigration law, but is supported by an affidavit, order, or
106 other official documentation that indicates that the federal
107 immigration agency has probable cause to believe that the person
108 to be detained is a removable alien under federal immigration
109 law.

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

112 (4) "Law enforcement agency" means an agency in this state
113 charged with enforcement of state, county, municipal, or federal
114 laws or with managing custody of detained persons in the state
115 and includes municipal police departments, sheriff's offices,
116 state police departments, state university and college police

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117 departments, and the Department of Corrections. The term
118 includes an official or employee of such an agency.

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

123 (6) "Sanctuary policy" means a law, policy, practice,
124 procedure, or custom adopted or permitted by a state entity,
125 local governmental entity, or law enforcement agency which
126 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly
127 prohibits or impedes a law enforcement agency from communicating
128 or cooperating with a federal immigration agency with respect to
129 federal immigration enforcement, including, but not limited to,
130 limiting a state entity, local governmental entity, or law
131 enforcement agency in, or prohibiting such an entity or agency
132 from:

133 (a) Complying with an immigration detainer;

134 (b) Complying with a request from a federal immigration
135 agency to notify the agency before the release of an inmate or
136 detainee in the custody of the state entity, local governmental
137 entity, or law enforcement agency;

138 (c) Providing a federal immigration agency access to an
139 inmate for interview;

140 (d) Initiating an immigration status investigation; or

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

143 (7) "Sanctuary policymaker" means a state or local elected
144 official, or an appointed official of the governing body of a
145 local governmental entity, who has voted for, allowed to be

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146 implemented, or voted against repeal or prohibition of a
147 sanctuary policy.

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

154 PART II

155 DUTIES

156 908.201 Sanctuary policies prohibited.—A state entity, law
157 enforcement agency, or local governmental entity may not adopt
158 or have in effect a sanctuary policy.

159 908.202 Cooperation with federal immigration authorities.—

160 (1) A state entity, local governmental entity, or law
161 enforcement agency shall fully comply with and, to the full
162 extent permitted by law, support the enforcement of federal
163 immigration law. This subsection applies to an official,
164 representative, agent, or employee of such entity or agency only
165 when he or she is acting within the scope of his or her official
166 duties or within the scope of his or her employment.

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

173 (a) Sending such information to or requesting, receiving,
174 or reviewing such information from a federal immigration agency

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175 for purposes of this chapter.

176 (b) Recording and maintaining such information for purposes
177 of this chapter.

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

181 (d) Using such information to determine eligibility for a
182 public benefit, service, or license pursuant to federal or state
183 law or an ordinance or regulation of a local governmental
184 entity.

185 (e) Using such information to verify a claim of residence
186 or domicile if a determination of residence or domicile is
187 required under federal or state law, an ordinance or regulation
188 of a local governmental entity, or a judicial order issued
189 pursuant to a civil or criminal proceeding in this state.

190 (f) Using such information to comply with an immigration
191 detainer.

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

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

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

198 2. The judge:

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

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

203 (b) In an applicable criminal case, at the time of

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204 pronouncement of a sentence of confinement, the judge shall
205 issue an order requiring the secure correctional facility in
206 which the defendant is to be confined to reduce the defendant's
207 sentence by a period of not more than 7 days on the facility's
208 determination that the reduction in sentence will facilitate the
209 seamless transfer of the defendant into federal custody. For
210 purposes of this paragraph, the term "secure correctional
211 facility" means a state correctional institution as defined in
212 s. 944.02 or a county detention facility or a municipal
213 detention facility as defined in s. 951.23.

214 (c) If the information specified in sub-subparagraph
215 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
216 the sentence is pronounced in the case, the judge shall issue
217 the order described by paragraph (b) as soon as the information
218 becomes available.

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

229 (5) This section does not require a state entity, local
230 governmental entity, or law enforcement agency to provide a
231 federal immigration agency with information related to a victim
232 of or a witness to a criminal offense if such victim or witness

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233 timely and in good faith responds to the entity's or agency's
234 request for information and cooperation in the investigation or
235 prosecution of such offense.

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

244 908.203 Duties related to certain arrested persons.—

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

250 (a) Shall review any information available from a federal
251 immigration agency.

252 (b) If information obtained under paragraph (a) reveals
253 that the person is not a citizen of the United States and is
254 unlawfully present in the United States according to the terms
255 of the federal Immigration and Nationality Act, 8 U.S.C. ss.
256 1101 et seq., must:

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

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

261 3. Record the person's arrest and charges in the person's

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262 case file.

263 (2) A law enforcement agency is not required to perform the
264 duty imposed by subsection (1) with respect to a person who is
265 transferred to the custody of the agency by another law
266 enforcement agency if the transferring agency performed that
267 duty before the transfer.

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

271 908.204 Duties related to immigration detainers.—

272 (1) A law enforcement agency that has custody of a person
273 subject to an immigration detainer issued by a federal
274 immigration agency shall:

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

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

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

282 (2) A law enforcement agency is not required to perform a
283 duty imposed by paragraph (1) (a) or paragraph (1) (b) with
284 respect to a person who is transferred to the custody of the
285 agency by another law enforcement agency if the transferring
286 agency performed that duty before the transfer.

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

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291 908.205 Reimbursement of costs.-

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

299 (2) A local governmental entity or law enforcement agency
300 may petition the Federal Government for reimbursement of the
301 entity's or agency's detention costs and the costs of compliance
302 with federal requests when such costs are incurred in support of
303 the enforcement of federal immigration law.

304 908.206 Duty to report.-

305 (1) An official, representative, agent, or employee of a
306 state entity, local governmental entity, or law enforcement
307 agency shall promptly report a known or probable violation of
308 this chapter to the Attorney General or the state attorney
309 having jurisdiction over the entity or agency.

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

316 (3) A state entity, local governmental entity, or law
317 enforcement agency may not dismiss, discipline, take any adverse
318 personnel action as defined in s. 112.3187(3) against, or take
319 any adverse action described in s. 112.3187(4) (b) against, an

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320 official, representative, agent, or employee for complying with
321 subsection (1).

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

329 908.207 Implementation.—This chapter shall be implemented
330 to the fullest extent permitted by federal law regulating
331 immigration and the legislative findings and intent declared in
332 s. 908.101.

333 PART III

334 ENFORCEMENT

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

342 908.302 Enforcement; penalties.—

343 (1) The state attorney for the county in which a state
344 entity is headquartered or in which a local governmental entity
345 or law enforcement agency is located has primary responsibility
346 and authority for investigating credible complaints of a
347 violation of this chapter. The results of an investigation by a
348 state attorney shall be provided to the Attorney General in a

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349 timely manner.

350 (2) (a) A state entity, local governmental entity, or law
351 enforcement agency about which the state attorney has received a
352 complaint shall comply with a document request from the state
353 attorney related to the complaint.

354 (b) If the state attorney determines that a complaint filed
355 against a state entity, local governmental entity, or law
356 enforcement agency is valid, the state attorney shall, not later
357 than the 10th day after the date of the determination, provide
358 written notification to the entity or agency that:

359 1. The complaint has been filed.

360 2. The state attorney has determined that the complaint is
361 valid.

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

366 (c) No later than the 30th day after the day a state
367 entity, local governmental entity, or law enforcement agency
368 receives written notification under paragraph (b), the entity or
369 agency shall provide the state attorney with a copy of:

370 1. The entity's or agency's written policies and procedures
371 with respect to federal immigration agency enforcement actions,
372 including the entity's or agency's policies and procedures with
373 respect to immigration detainers.

374 2. Each immigration detainer received by the entity or
375 agency from a federal immigration agency in the current calendar
376 year-to-date and the 2 prior calendar years.

377 3. Each response sent by the entity or agency for an

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378 immigration detainer described by subparagraph 2.

379 (3) The Attorney General, the state attorney who conducted
380 the investigation, or a state attorney so ordered by the
381 Governor pursuant to s. 27.14 may institute proceedings in
382 circuit court to enjoin a state entity, local governmental
383 entity, or law enforcement agency found to be in violation of
384 this chapter. Venue of an action brought by the Attorney General
385 may be in Leon County. The court shall expedite an action under
386 this section, including setting a hearing at the earliest
387 practicable date.

388 (4) Upon adjudication by the court or as provided in a
389 consent decree declaring that a state entity, local governmental
390 entity, or law enforcement agency has violated this chapter, the
391 court shall enjoin the unlawful sanctuary policy and order that
392 such entity or agency pay a civil penalty to the state of at
393 least \$1,000 but not more than \$5,000 for each day that the
394 sanctuary policy was in effect commencing on October 1, 2019, or
395 the date the sanctuary policy was first enacted, whichever is
396 later, until the date the injunction was granted. The court has
397 continuing jurisdiction over the parties and subject matter and
398 may enforce its orders with the imposition of additional civil
399 penalties as provided for in this section and the initiation of
400 contempt proceedings as provided by law.

401 (5) An order approving a consent decree or granting an
402 injunction or imposing civil penalties pursuant to subsection
403 (4) must include written findings of fact that describe with
404 specificity the existence and nature of the sanctuary policy
405 that is in violation of s. 908.201 and identify each sanctuary
406 policymaker who voted for, allowed to be implemented, or voted

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407 against repeal or prohibition of the sanctuary policy. The court
408 shall provide to the Governor a copy of the consent decree or
409 order granting an injunction or imposing civil penalties which
410 contains the written findings required by this subsection within
411 30 days after the date of rendition. A sanctuary policymaker
412 identified in an order approving a consent decree or granting an
413 injunction or imposing civil penalties may be suspended or
414 removed from office pursuant to general law and s. 7, Art. IV of
415 the State Constitution.

416 (6) A state entity, local governmental entity, or law
417 enforcement agency ordered to pay a civil penalty pursuant to
418 subsection (4) shall remit such payment to the Chief Financial
419 Officer, who shall deposit it into the General Revenue Fund.

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

425 908.303 Civil cause of action for personal injury or
426 wrongful death attributed to a sanctuary policy; trial by jury;
427 required written findings.-

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

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436 (a) The existence of a sanctuary policy in violation of s.
437 908.201; and

438 (b)1. A failure to comply with s. 908.202 which results in
439 such alien's having access to the person injured or killed when
440 the tortious acts or omissions occurred; or

441 2. A failure to comply with s. 908.204(1)(c) which results
442 in such alien's having access to the person injured or killed
443 when the tortious acts or omissions occurred.

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

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

451 (4) A final judgment entered in favor of a plaintiff in a
452 cause of action brought pursuant to this section must include
453 written findings of fact that describe with specificity the
454 existence and nature of the sanctuary policy that is in
455 violation of s. 908.201 and that identify each sanctuary
456 policymaker who voted for, allowed to be implemented, or voted
457 against repeal or prohibition of the sanctuary policy. The court
458 shall provide a copy of the final judgment containing the
459 written findings required by this subsection to the Governor
460 within 30 days after the date of rendition. A sanctuary
461 policymaker identified in a final judgment may be suspended or
462 removed from office pursuant to general law and s. 7, Art. IV of
463 the State Constitution.

464 (5) Except as provided in this section, this chapter does

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465 not create a private cause of action against a state entity,
466 local governmental entity, or law enforcement agency that
467 complies with this chapter.

468 908.304 Ineligibility for state grant funding.-

469 (1) Notwithstanding any other provision of law, a state
470 entity, local governmental entity, or law enforcement agency is
471 ineligible to receive funding from nonfederal grant programs
472 administered by state agencies that receive funding from the
473 General Appropriations Act for a period of 5 years after the
474 date of adjudication that such state entity, local governmental
475 entity, or law enforcement agency had in effect a sanctuary
476 policy in violation of this chapter.

477 (2) The applicable state attorney shall notify the Chief
478 Financial Officer of an adjudicated violation of this chapter by
479 a state entity, local governmental entity, or law enforcement
480 agency and shall provide him or her a copy of the final court
481 injunction, order, or judgment. Upon receiving such notice, the
482 Chief Financial Officer shall timely inform all state agencies
483 that administer nonfederal grant funding of the adjudicated
484 violation by the state entity, local governmental entity, or law
485 enforcement agency and direct such agencies to cancel all
486 pending grant applications and enforce the ineligibility of such
487 entity for the prescribed period.

488 (3) This subsection does not apply to:

489 (a) Funding that is received as a result of an
490 appropriation to a specifically named state entity, local
491 governmental entity, or law enforcement agency in the General
492 Appropriations Act or other law.

493 (b) Grants awarded prior to the date of adjudication that

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494 such state entity, local governmental entity, or law enforcement
495 agency had in effect a sanctuary policy in violation of this
496 chapter.

497 PART IV

498 MISCELLANEOUS

499 908.401 Education records.—This chapter does not apply to
500 the release of information contained in education records of an
501 educational agency or institution, except in conformity with the
502 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
503 1232g.

504 908.402 Discrimination prohibited.—A state entity, a local
505 governmental entity, or a law enforcement agency, or a person
506 employed by or otherwise under the direction or control of such
507 an entity or agency, may not base its actions under this chapter
508 on the gender, race, religion, national origin, or physical
509 disability of a person except to the extent authorized by the
510 United States Constitution or the State Constitution.

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

515 Section 4. Sections 908.302 and 908.303, Florida Statutes,
516 as created by this act, shall take effect October 1, 2019, and,
517 except as otherwise expressly provided in this act, this act
518 shall take effect July 1, 2019.