

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 definitions;
6 prohibiting sanctuary policies; requiring state entities,
7 local governmental entities, and law enforcement agencies
8 to use best efforts to support the enforcement of federal
9 immigration law; prohibiting restrictions by the entities
10 and agencies on taking certain actions with respect to
11 information regarding a person's immigration status;
12 defining the terms "applicable criminal case" and "secure
13 correctional facility"; providing requirements concerning
14 certain criminal defendants subject to immigration
15 detainers or otherwise subject to transfer to federal
16 custody; authorizing a law enforcement agency to transport
17 an alien unlawfully present in the United States under
18 certain circumstances; providing an exception to reporting
19 requirements; requiring recordkeeping in certain
20 investigations; specifying duties concerning immigration
21 detainers; requiring county correctional facilities to
22 enter into agreements for payments for complying with
23 immigration detainers; requiring the Attorney General to
24 prescribe the format for submitting complaints; providing
25 requirements for entities to comply with document requests

26 | from state attorneys concerning violations; providing for
 27 | investigation of possible violations; providing for
 28 | injunctive relief and civil penalties; providing for venue;
 29 | requiring written findings; prohibiting the expenditure of
 30 | public funds for specified purposes; providing a cause of
 31 | action for personal injury or wrongful death attributed to
 32 | a sanctuary policy; providing that a trial by jury is a
 33 | matter of right; requiring written findings; providing for
 34 | applicability to certain education records; prohibiting
 35 | discrimination on specified grounds; providing for
 36 | implementation; requiring repeal of existing sanctuary
 37 | policies within a specified period; providing effective
 38 | dates.

39 |

40 | Be It Enacted by the Legislature of the State of Florida:

41 |

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

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

46 |

CHAPTER 908

47 |

FEDERAL IMMIGRATION ENFORCEMENT

48 |

PART I

49 |

FINDINGS AND DEFINITIONS

50 |

908.101 Legislative findings and intent.—The Legislature

51 finds that it is an important state interest to cooperate and
52 assist the federal government in the enforcement of federal
53 immigration laws within this state.

54 908.102 Definitions.—As used in this chapter, the term:

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

63 (2) "Immigration detainer" means a facially sufficient
64 written or electronic request issued by a federal immigration
65 agency using that agency's official form to request that another
66 law enforcement agency detain a person based on probable cause
67 to believe that the person to be detained is a removable alien
68 under federal immigration law, including detainers issued
69 pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant
70 described in this subsection. For purposes of this subsection,
71 an immigration detainer is deemed facially sufficient if the
72 federal immigration agency supplies with its detention request a
73 Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant
74 of Removal/Deportation or a successor warrant or other warrant
75 authorized by federal law and:

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

80 (b) The federal immigration agency's official form is
81 incomplete and fails to indicate on its face that the federal
82 immigration official has probable cause to believe that the
83 person to be detained is a removable alien under federal
84 immigration law, but is supported by an affidavit, order, or
85 other official documentation that indicates that the federal
86 immigration agency has probable cause to believe that the person
87 to be detained is a removable alien under federal immigration
88 law.

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

91 (4) "Law enforcement agency" means an agency in this state
92 charged with enforcement of state, county, municipal, or federal
93 laws or with managing custody of detained persons in the state
94 and includes municipal police departments, sheriff's offices,
95 state police departments, state university and college police
96 departments, county correctional agencies, and the Department of
97 Corrections. The term includes an official or employee of such
98 an agency.

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

101 term includes a person holding public office or having official
102 duties as a representative, agent, or employee of the entity.

103 (6) "Sanctuary policy" means a law, policy, practice,
104 procedure, or custom adopted or permitted by a state entity,
105 local governmental entity, or law enforcement agency which
106 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly
107 prohibits or impedes a law enforcement agency from communicating
108 or cooperating with a federal immigration agency with respect to
109 federal immigration enforcement, including, but not limited to,
110 limiting a law enforcement agency in, or prohibiting such agency
111 from:

112 (a) Complying with an immigration detainer;

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

116 (c) Providing a federal immigration agency access to an
117 inmate for interview;

118 (d) Participating in any program or agreement authorized
119 under s. 287 of the Immigration and Nationality Act, 8 U.S.C. s.
120 1357; or

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

123 (7) "Sanctuary policymaker" means a state or local elected
124 official or an appointed official of a local governmental entity
125 governing body who has voted for, allowed to be implemented, or

126 | voted against repeal or prohibition of a sanctuary policy, or
127 | who willfully engages in a pattern of noncooperation with a
128 | federal immigration agency.

129 | (8) "State entity" means the state or any office, board,
130 | bureau, commission, department, branch, division, or institution
131 | thereof, including institutions within the State University
132 | System and the Florida College System. The term includes a
133 | person holding public office or having official duties as a
134 | representative, agent, or employee of the entity.

135 | PART II

136 | DUTIES

137 | 908.201 Sanctuary policies prohibited.—A state entity, law
138 | enforcement agency, or local governmental entity may not adopt
139 | or have in effect a sanctuary policy.

140 | 908.202 Cooperation with federal immigration authorities.—

141 | (1) A law enforcement agency shall use best efforts to
142 | support the enforcement of federal immigration law. This
143 | subsection applies to an official, representative, agent, or
144 | employee of the entity or agency only when he or she is acting
145 | within the scope of his or her official duties or within the
146 | scope of his or her employment.

147 | (2) Except as otherwise expressly prohibited by federal
148 | law, a state entity, local governmental entity, or law
149 | enforcement agency may not prohibit or in any way restrict a law
150 | enforcement agency from taking any of the following actions with

151 respect to information regarding a person's immigration status:

152 (a) Sending the information to or requesting, receiving,
153 or reviewing the information from a federal immigration agency
154 for purposes of this chapter.

155 (b) Recording and maintaining the information for purposes
156 of this chapter.

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

160 (d) Using the information to comply with an immigration
161 detainer.

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

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

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

168 2. The judge:

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

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

173 (b) In an applicable criminal case, when the judge
174 sentences a defendant who is the subject of an immigration
175 detainer to confinement, the judge shall issue an order

176 requiring the secure correctional facility in which the
177 defendant is to be confined to reduce the defendant's sentence
178 by a period of not more than 7 days on the facility's
179 determination that the reduction in sentence will facilitate the
180 seamless transfer of the defendant into federal custody. For
181 purposes of this paragraph, the term "secure correctional
182 facility" means a state correctional institution as defined in
183 s. 944.02 or a county detention facility or a municipal
184 detention facility as defined in s. 951.23.

185 (c) If the information specified in sub-subparagraph
186 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
187 the sentence is pronounced in the case, but is received by a law
188 enforcement agency afterwards, the law enforcement agency shall
189 notify the judge who shall issue the order described by
190 paragraph (b) as soon as the information becomes available.

191 (4) When a county correctional facility or the Department
192 of Corrections receives verification from a federal immigration
193 agency that a person subject to an immigration detainer is in
194 the law enforcement agency's custody, the agency may securely
195 transport the person to a federal facility in this state or to
196 another point of transfer to federal custody outside the
197 jurisdiction of the law enforcement agency. However, the law
198 enforcement agency may transport the person who is subject to
199 the immigration detainer and confined in a secure correctional
200 facility only upon authorization by a court order unless the

201 transportation will occur within the 7 day period under
202 subsection (3). A law enforcement agency shall obtain judicial
203 authorization before securely transporting an alien to a point
204 of transfer outside of this state.

205 (5) This section does not require a state entity, local
206 governmental entity, or law enforcement agency to provide a
207 federal immigration agency with information related to a victim
208 of or a witness to a criminal offense if the victim or witness
209 timely and in good faith responds to the entity's or agency's
210 request for information and cooperation in the investigation or
211 prosecution of the offense.

212 (6) A state entity, local governmental entity, or law
213 enforcement agency that, pursuant to subsection (5), withholds
214 information regarding the immigration information of a victim of
215 or witness to a criminal offense shall document the victim's or
216 witness's cooperation in the entity's or agency's investigative
217 records related to the offense and shall retain the records for
218 at least 10 years for the purpose of audit, verification, or
219 inspection by the Auditor General.

220 908.203 Duties related to immigration detainers.—

221 (1) A law enforcement agency that has custody of a person
222 subject to an immigration detainer issued by a federal
223 immigration agency shall:

224 (a) Provide to the judge authorized to grant or deny the
225 person's release on bail under chapter 903 notice that the

226 person is subject to an immigration detainer.

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

229 (c) Upon determining that the immigration detainer is in
230 accordance with s. 908.102(2), comply with the requests made in
231 the immigration detainer.

232 (2) A law enforcement agency is not required to perform a
233 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
234 respect to a person who is transferred to the custody of the
235 agency by another law enforcement agency if the transferring
236 agency performed that duty before the transfer.

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

241 908.204 Reimbursement of costs.—Each county correctional
242 facility shall enter into an agreement or agreements with a
243 federal immigration agency for temporarily housing persons who
244 are the subject of immigration detainers and for the payment of
245 the costs of housing and detaining those persons. A compliant
246 agreement may include any contract between a correctional
247 facility and a federal immigration agency for housing or
248 detaining persons subject to immigration detainers, such as
249 basic ordering agreements in effect on or after July 1, 2019,
250 agreements authorized by s. 287 of the Immigration and

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

253 PART III

254 ENFORCEMENT

255 908.301 Complaints.—The Attorney General shall prescribe
256 and provide through the Department of Legal Affairs' website the
257 format for a person to submit a complaint alleging a violation
258 of this chapter. This section does not prohibit the filing of an
259 anonymous complaint or a complaint not submitted in the
260 prescribed format. Any person has standing to submit a complaint
261 under this chapter.

262 908.302 Enforcement; penalties.—

263 (1) The state attorney for the county in which a state
264 entity is headquartered or in which a local governmental entity
265 or law enforcement agency is located has primary responsibility
266 and authority for investigating credible complaints of a
267 violation of this chapter. The results of an investigation by a
268 state attorney shall be provided to the Attorney General in a
269 timely manner.

270 (2) (a) A state entity, local governmental entity, or law
271 enforcement agency for which the state attorney has received a
272 complaint shall comply with a document request from the state
273 attorney related to the complaint.

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

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

279 1. The complaint has been filed.

280 2. The state attorney has determined that the complaint is
 281 valid.

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

286 (c) No later than the 30th day after the day a state
 287 entity or local governmental entity receives written
 288 notification under paragraph (b), the state entity or local
 289 governmental entity shall provide the state attorney with a copy
 290 of:

291 1. The entity's written policies and procedures with
 292 respect to federal immigration agency enforcement actions,
 293 including the entity's policies and procedures with respect to
 294 immigration detainers.

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

298 3. Each response sent by the entity for an immigration
 299 detainer described by subparagraph 2.

300 (3) The Attorney General, the state attorney who conducted

301 the investigation, or a state attorney ordered by the Governor
302 pursuant to s. 27.14 may institute proceedings in circuit court
303 to enjoin a state entity, local governmental entity, or law
304 enforcement agency found to be in violation of this chapter.
305 Venue of an action brought by the Attorney General may be in
306 Leon County. The court shall expedite an action under this
307 section, including setting a hearing at the earliest practicable
308 date.

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

322 (5) An order approving a consent decree or granting an
323 injunction or civil penalties pursuant to subsection (4) must
324 include written findings of fact that describe with specificity
325 the existence and nature of the sanctuary policy in violation of

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

336 (6) A state entity, local governmental entity, or law
337 enforcement agency ordered to pay a civil penalty pursuant to
338 subsection (4) shall remit payment to the Chief Financial
339 Officer, who shall deposit such payment into the General Revenue
340 Fund.

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

346 908.303 Civil cause of action for personal injury or
347 wrongful death attributed to a sanctuary policy; trial by jury;
348 required written findings.-

349 (1) A person injured in this state by the tortious acts or
350 omissions of an alien unlawfully present in the United States,

351 or the personal representative of a person killed in this state
352 by the tortious acts or omissions of an alien unlawfully present
353 in the United States, has a cause of action for damages against
354 a state entity, local governmental entity, or law enforcement
355 agency in violation of ss. 908.201 and 908.202 upon proof by the
356 greater weight of the evidence of:

357 (a) The existence of a sanctuary policy in violation of s.
358 908.201; and

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

362 2. A failure to comply with a provision of s.
363 908.203(1)(c) resulting in such alien's having access to the
364 person injured or killed when the tortious acts or omissions
365 occurred.

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

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

373 (4) A final judgment entered in favor of a plaintiff in a
374 cause of action brought pursuant to this section must include
375 written findings of fact that describe with specificity the

376 existence and nature of the sanctuary policy in violation of s.
377 908.201 and that identify each sanctuary policymaker who voted
378 for, allowed to be implemented, or voted against repeal or
379 prohibition of the sanctuary policy. The court shall provide a
380 copy of the final judgment containing the written findings
381 required by this subsection to the Governor within 30 days after
382 the date of rendition. A sanctuary policymaker identified in a
383 final judgment may be suspended or removed from office pursuant
384 to general law and s. 7, Art. IV of the State Constitution.

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

389 908.304 Ineligibility for state grant funding.-

390 (1) Notwithstanding any other provision of law, a state
391 entity, local governmental entity, or law enforcement agency
392 shall be ineligible to receive funding from non-federal grant
393 programs administered by state agencies that receive funding
394 from the General Appropriations Act for a period of 5 years from
395 the date of adjudication that such state entity, local
396 governmental entity, or law enforcement agency had in effect a
397 sanctuary policy in violation of this chapter.

398 (2) The Chief Financial Officer shall be notified by the
399 state attorney of an adjudicated violation of this chapter by a
400 state entity, local governmental entity, or law enforcement

401 agency and be provided with a copy of the final court
402 injunction, order, or judgment. Upon receiving such notice, the
403 Chief Financial Officer shall timely inform all state agencies
404 that administer non-federal grant funding of the adjudicated
405 violation by the state entity, local governmental entity, or law
406 enforcement agency and direct such agencies to cancel all
407 pending grant applications and enforce the ineligibility of such
408 entity for the prescribed period.

409 (3) This subsection does not apply to:

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

414 (b) Grants awarded before the date of adjudication that
415 such state entity, local governmental entity, or law enforcement
416 agency had in effect a sanctuary policy in violation of this
417 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, a local

426 governmental entity, or a law enforcement agency, or a person
427 employed by or otherwise under the direction or control of such
428 an entity, may not base its actions under this chapter on the
429 gender, race, religion, national origin, or physical disability
430 of a person except to the extent permitted 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.