

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

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

48 |  
49 | Be It Enacted by the Legislature of the State of Florida:  
50 |

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

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

55                           CHAPTER 908

56                                   FEDERAL IMMIGRATION ENFORCEMENT

57   PART I

58   FINDINGS AND DEFINITIONS

59           908.101 Legislative findings and intent.—The Legislature  
60 finds that it is an important state interest that state  
61 entities, local governmental entities, and their officials owe  
62 an affirmative duty to all citizens and other persons lawfully  
63 present in the United States to assist the Federal Government  
64 with enforcement of federal immigration laws within this state,  
65 including complying with federal immigration detainers. The  
66 Legislature further finds that it is an important state interest  
67 that, in the interest of public safety and adherence to federal  
68 law, this state support federal immigration enforcement efforts  
69 and ensure that such efforts are not impeded or thwarted by  
70 state or local laws, policies, practices, procedures, or  
71 customs. State entities, local governmental entities, and their  
72 officials who encourage persons unlawfully present in the United  
73 States to locate within this state or who shield such persons  
74 from personal responsibility for their unlawful actions breach  
75 this duty and should be held accountable.

76 908.102 Definitions.—As used in this chapter, the term:

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

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

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

97 (b) The federal immigration agency's official form is  
98 incomplete and fails to indicate on its face that the federal  
99 immigration official has probable cause to believe that the  
100 person to be detained is a removable alien under federal

101 immigration law, but is supported by an affidavit, order, or  
102 other official documentation that indicates that the federal  
103 immigration agency has probable cause to believe that the person  
104 to be detained is a removable alien under federal immigration  
105 law.

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

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

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

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

126 limiting or preventing a state entity, local governmental  
 127 entity, or law enforcement agency from:  
 128 (a) Complying with an immigration detainer;  
 129 (b) Complying with a request from a federal immigration  
 130 agency to notify the agency before the release of an inmate or  
 131 detainee in the custody of the state entity, local governmental  
 132 entity, or law enforcement agency;  
 133 (c) Providing a federal immigration agency access to an  
 134 inmate for interview;  
 135 (d) Initiating an immigration status investigation; or  
 136 (e) Providing a federal immigration agency with an  
 137 inmate's incarceration status or release date.  
 138 (7) "Sanctuary policymaker" means a state or local elected  
 139 official, or an appointed official of a local governmental  
 140 entity governing body, who has voted for, allowed to be  
 141 implemented, or voted against repeal or prohibition of a  
 142 sanctuary policy.  
 143 (8) "State entity" means the state or any office, board,  
 144 bureau, commission, department, branch, division, or institution  
 145 thereof, including institutions within the State University  
 146 System and the Florida College System. The term includes a  
 147 person holding public office or having official duties as a  
 148 representative, agent, or employee of such entity.

149 PART II

150 DUTIES

151        908.201 Sanctuary policies prohibited.—A state entity, law  
152 enforcement agency, or local governmental entity may not adopt  
153 or have in effect a sanctuary policy.

154        908.202 Cooperation with federal immigration authorities.—

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

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

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

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

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

176        (d) Using such information to determine eligibility for a  
177 public benefit, service, or license pursuant to federal or state  
178 law or an ordinance or regulation of a local governmental  
179 entity.

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

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

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

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

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

193        2. The judge:

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

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

198        (b) In a criminal case described by paragraph (a), the  
199 judge shall, at the time of pronouncement of a sentence of  
200 confinement, issue an order requiring the secure correctional

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

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

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

224 (5) This section does not require a state entity, local  
225 governmental entity, or law enforcement agency to provide a

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

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

239 908.203 Duties related to certain arrested persons.-

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

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

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

251 1101 et seq., the law enforcement agency shall:

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

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

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

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

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

265 908.204 Duties related to immigration detainer.-

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

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

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

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

276        (2) A law enforcement agency is not required to perform a  
277 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
278 respect to a person who is transferred to the custody of the  
279 agency by another law enforcement agency if the transferring  
280 agency performed that duty before transferring custody of the  
281 person.

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

286        908.205 Reimbursement of costs.—

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

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

299        908.206 Duty to report.—

300        (1) An official, representative, agent, or employee of a

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

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

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

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

324 908.207 Implementation.—This chapter shall be implemented  
325 to the fullest extent permitted by federal law regulating

326 immigration and the legislative findings and intent declared in  
327 s. 908.101.

328 PART III

329 ENFORCEMENT

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

337 908.302 Enforcement; penalties.—

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

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

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

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

354 1. The complaint has been filed.

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

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

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

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

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

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

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

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

384 (4) Upon adjudication by the court or as provided in a  
385 consent decree declaring that a state entity, local governmental  
386 entity, or law enforcement agency has violated this chapter, the  
387 court shall enjoin the unlawful sanctuary policy and order that  
388 such entity or agency pay a civil penalty to the state of at  
389 least \$1,000 but not more than \$5,000 for each day that the  
390 sanctuary policy was in effect commencing on October 1, 2018, or  
391 the date the sanctuary policy was first enacted, whichever is  
392 later, until the date the injunction was granted. The court  
393 shall have continuing jurisdiction over the parties and subject  
394 matter and may enforce its orders with imposition of additional  
395 civil penalties as provided for in this section and contempt  
396 proceedings as provided by law.

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

401 s. 908.201 and that identify each sanctuary policymaker who  
402 voted for, allowed to be implemented, or voted against repeal or  
403 prohibition of the sanctuary policy. The court shall provide a  
404 copy of the consent decree or order granting an injunction or  
405 civil penalties that contains the written findings required by  
406 this subsection to the Governor within 30 days after the date of  
407 rendition. A sanctuary policymaker identified in an order  
408 approving a consent decree or granting an injunction or civil  
409 penalties may be suspended or removed from office pursuant to  
410 general law and s. 7, Art. IV of the State Constitution.

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

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

421 908.303 Civil cause of action for personal injury or  
422 wrongful death attributed to a sanctuary policy; trial by jury;  
423 required written findings.-

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

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

432 (a) The existence of a sanctuary policy in violation of s.  
433 908.201; and

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

437 2. A failure to comply with a provision of s.  
438 908.204(1)(c) resulting in such alien's having access to the  
439 person injured or killed when the tortious acts or omissions  
440 occurred.

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

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

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

451 existence and nature of the sanctuary policy in violation of s.  
452 908.201 and that identify each sanctuary policymaker who voted  
453 for, allowed to be implemented, or voted against repeal or  
454 prohibition of the sanctuary policy. The court shall provide a  
455 copy of the final judgment containing the written findings  
456 required by this subsection to the Governor within 30 days after  
457 the date of rendition. A sanctuary policymaker identified in a  
458 final judgment may be suspended or removed from office pursuant  
459 to general law and s. 7, Art. IV of the State Constitution.

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

464 908.304 Ineligibility for state grant funding.-

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

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

476 agency and be provided with a copy of the final court  
477 injunction, order, or judgment. Upon receiving such notice, the  
478 Chief Financial Officer shall timely inform all state agencies  
479 that administer non-federal grant funding of the adjudicated  
480 violation by the state entity, local governmental entity, or law  
481 enforcement agency and direct such agencies to cancel all  
482 pending grant applications and enforce the ineligibility of such  
483 entity for the prescribed period.

484 (3) This subsection does not apply to:

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

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

493 PART IV

494 MISCELLANEOUS

495 908.401 Education records.—This chapter does not apply to  
496 the release of information contained in education records of an  
497 educational agency or institution, except in conformity with the  
498 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
499 1232g.

500 908.402 Discrimination prohibited.—A state entity, a local

501 governmental entity, or a law enforcement agency, or a person  
502 employed by or otherwise under the direction or control of such  
503 an entity, may not base its actions under this chapter on the  
504 gender, race, religion, national origin, or physical disability  
505 of a person except to the extent permitted by the United States  
506 Constitution or the state constitution.

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

511 Section 4. Sections 908.302 and 908.303, Florida Statutes,  
512 as created by this act, shall take effect October 1, 2018, and,  
513 except as otherwise expressly provided in this act, this act  
514 shall take effect July 1, 2018.