

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 use best efforts to support
9 the enforcement of federal immigration law;
10 prohibiting restrictions by the entities and agencies
11 on taking certain actions with respect to information
12 regarding a person's immigration status; defining the
13 terms "applicable criminal case" and "secure
14 correctional facility"; 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 alien unlawfully present in the
19 United States under certain circumstances; providing
20 an exception to reporting requirements; requiring
21 recordkeeping in certain investigations; specifying
22 duties concerning immigration detainers; requiring
23 county correctional facilities to enter into
24 agreements for payments for complying with immigration
25 detainers; requiring the Attorney General to prescribe

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

42 |

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

44 |

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

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

49 |

CHAPTER 908

50 |

FEDERAL IMMIGRATION ENFORCEMENT

PART I

FINDINGS AND DEFINITIONS

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

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.

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

76 | of Removal/Deportation or a successor warrant or other warrant
77 | authorized by federal law and:

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

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

91 | (3) "Inmate" means a person in the custody of a law
92 | enforcement agency.

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

100 | (5) "Local governmental entity" means any county,

101 municipality, or other political subdivision of this state.

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

111 (a) Complying with an immigration detainer;

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

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

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

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

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

126 | who willfully engages in a pattern of noncooperation with a
 127 | federal immigration agency.

128 | (8) "State entity" means the state or any office, board,
 129 | bureau, commission, department, branch, division, or institution
 130 | thereof, including institutions within the State University
 131 | System and the Florida College System.

132 | PART II

133 | DUTIES

134 | 908.201 Sanctuary policies prohibited.—A state entity, law
 135 | enforcement agency, or local governmental entity may not adopt
 136 | or have in effect a sanctuary policy.

137 | 908.202 Cooperation with federal immigration authorities.—

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

144 | (2) Except as otherwise expressly prohibited by federal
 145 | law, a state entity, local governmental entity, or law
 146 | enforcement agency, or an employee, an agent, or a
 147 | representative of the entity or agency, may not prohibit or in
 148 | any way restrict a law enforcement agency from taking any of the
 149 | following actions with respect to information regarding a
 150 | person's immigration status:

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

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

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

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

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

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

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

167 2. The judge:

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

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

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

176 defendant is to be confined to reduce the defendant's sentence
177 by a period of not more than 12 days on the facility's
178 determination that the reduction in sentence will facilitate the
179 seamless transfer of the defendant into federal custody. For
180 purposes of this paragraph, the term "secure correctional
181 facility" means a state correctional institution as defined in
182 s. 944.02 or a county detention facility or a municipal
183 detention facility as defined in s. 951.23.

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

190 (4) When a county correctional facility or the Department
191 of Corrections receives verification from a federal immigration
192 agency that a person subject to an immigration detainer is in
193 the law enforcement agency's custody, the agency may securely
194 transport the person to a federal facility in this state or to
195 another point of transfer to federal custody outside the
196 jurisdiction of the law enforcement agency. The law enforcement
197 agency may transfer a person who is subject to an immigration
198 detainer and is confined in a secure correctional facility to
199 the custody of a federal immigration agency not earlier than 12
200 days before his or her release date. A law enforcement agency

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

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

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

218 908.203 Duties related to immigration detainers.—

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

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

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

226 subject to an immigration detainer.

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

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

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

239 908.204 Reimbursement of costs.—Each county correctional
240 facility shall enter into an agreement or agreements with a
241 federal immigration agency for temporarily housing persons who
242 are the subject of immigration detainers and for the payment of
243 the costs of housing and detaining those persons. A compliant
244 agreement may include any contract between a correctional
245 facility and a federal immigration agency for housing or
246 detaining persons subject to immigration detainers, such as
247 basic ordering agreements in effect on or after July 1, 2019,
248 agreements authorized by s. 287 of the Immigration and
249 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and
250 other similar agreements authorized by federal law.

251 PART III

252 ENFORCEMENT

253 908.301 Complaints.—The Attorney General shall prescribe
 254 and provide through the Department of Legal Affairs' website the
 255 format for a person to submit a complaint alleging a violation
 256 of this chapter. This section does not prohibit the filing of an
 257 anonymous complaint or a complaint not submitted in the
 258 prescribed format. Any person has standing to submit a complaint
 259 under this chapter.

260 908.302 Enforcement; penalties.—

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

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

272 (b) If the state attorney determines that a complaint
 273 filed against a state entity, local governmental entity, or law
 274 enforcement agency is valid, the state attorney shall, not later
 275 than the 10th day after the date of the determination, provide

276 written notification to the entity that:

277 1. The complaint has been filed.

278 2. The state attorney has determined that the complaint is
279 valid.

280 3. Any executive or administrative state, county, or
281 municipal officer who violates his duties under this chapter may
282 be subject to actions taken by the Governor in exercise of his
283 authority under the State Constitution and Florida law. As
284 provided in s. 1(b), Art. IV, of the State Constitution, the
285 Governor may, in his discretion, initiate judicial proceedings
286 in the name of the state against such officers to enforce
287 compliance with any duty under this chapter or restrain any
288 unauthorized act contrary to this chapter.

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

293 (c) No later than the 30th day after the day a state
294 entity or local governmental entity receives written
295 notification under paragraph (b), the state entity or local
296 governmental entity shall provide the state attorney with a copy
297 of:

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

301 immigration detainers.

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

305 3. Each response sent by the entity for an immigration
306 detainer described by subparagraph 2.

307 (3) As provided in s. 1(b), Art. IV, of the State
308 Constitution, the Governor may, in his discretion, initiate
309 judicial proceedings in the name of the state against such
310 officers to enforce compliance with any duty under this chapter
311 or restrain any unauthorized act contrary to this chapter. The
312 Attorney General, the state attorney who conducted the
313 investigation, or a state attorney ordered by the Governor
314 pursuant to s. 27.14 may institute proceedings in circuit court
315 to enjoin a state entity, local governmental entity, or law
316 enforcement agency found to be in violation of this chapter.
317 Venue of an action brought by the Attorney General may be in
318 Leon County. The court shall expedite an action under this
319 section, including setting a hearing at the earliest practicable
320 date.

321 (4) Upon adjudication by the court or as provided in a
322 consent decree declaring that an officer, state entity, local
323 governmental entity, or law enforcement agency has violated this
324 chapter, the court shall enjoin the unlawful sanctuary policy
325 and order that such entity or agency pay a civil penalty to the

326 state of at least \$1,000 but not more than \$5,000 for each day
327 that the sanctuary policy was in effect commencing on October 1,
328 2019, or the date the sanctuary policy was first enacted,
329 whichever is later, until the date the injunction was granted.
330 The court shall have continuing jurisdiction over the parties
331 and subject matter and may enforce its orders with imposition of
332 additional civil penalties as provided for in this section and
333 contempt proceedings as provided by law.

334 (5) An order approving a consent decree or granting an
335 injunction or civil penalties pursuant to subsection (4) must
336 include written findings of fact that describe with specificity
337 the existence and nature of the sanctuary policy in violation of
338 s. 908.201 and that identify each sanctuary policymaker who
339 voted for, allowed to be implemented, or voted against repeal or
340 prohibition of the sanctuary policy. The court shall provide a
341 copy of the consent decree or order granting an injunction or
342 civil penalties that contains the written findings required by
343 this subsection to the Governor within 30 days after the date of
344 rendition. Any executive or administrative state, county, or
345 municipal officer who violates his duties under this chapter may
346 be subject to actions taken by the Governor in exercise of his
347 authority under the State Constitution and Florida law.

348 (6) A state entity, local governmental entity, or law
349 enforcement agency ordered to pay a civil penalty pursuant to
350 subsection (4) shall remit payment to the Chief Financial

351 Officer, who shall deposit such payment into the General Revenue
352 Fund.

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

358 908.303 Civil cause of action for personal injury or
359 wrongful death attributed to a sanctuary policy; trial by jury;
360 required written findings.-

361 (1) A person injured in this state by the tortious acts or
362 omissions of an alien unlawfully present in the United States,
363 or the personal representative of a person killed in this state
364 by the tortious acts or omissions of an alien unlawfully present
365 in the United States, has a cause of action for damages against
366 a state entity, local governmental entity, or law enforcement
367 agency in violation of ss. 908.201 and 908.202 upon proof by the
368 greater weight of the evidence of:

369 (a) The existence of a sanctuary policy in violation of s.
370 908.201; and

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

374 2. A failure to comply with a provision of s.
375 908.203(1)(c) resulting in such alien's having access to the

376 person injured or killed when the tortious acts or omissions
377 occurred.

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

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

385 (4) A final judgment entered in favor of a plaintiff in a
386 cause of action brought pursuant to this section must include
387 written findings of fact that describe with specificity the
388 existence and nature of the sanctuary policy in violation of s.
389 908.201 and that identify each sanctuary policymaker who voted
390 for, allowed to be implemented, or voted against repeal or
391 prohibition of the sanctuary policy. The court shall provide a
392 copy of the final judgment containing the written findings
393 required by this subsection to the Governor within 30 days after
394 the date of rendition. A sanctuary policymaker identified in a
395 final judgment may be suspended or removed from office pursuant
396 to general law and s. 7, Art. IV of the State Constitution.

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

401 908.304 Ineligibility for state grant funding.-

402 (1) Notwithstanding any other provision of law, a state
403 entity, local governmental entity, or law enforcement agency
404 shall be ineligible to receive funding from non-federal grant
405 programs administered by state agencies that receive funding
406 from the General Appropriations Act for a period of 5 years from
407 the date of adjudication that such state entity, local
408 governmental entity, or law enforcement agency had in effect a
409 sanctuary policy in violation of this chapter.

410 (2) The Chief Financial Officer shall be notified by the
411 state attorney of an adjudicated violation of this chapter by a
412 state entity, local governmental entity, or law enforcement
413 agency and be provided with a copy of the final court
414 injunction, order, or judgment. Upon receiving such notice, the
415 Chief Financial Officer shall timely inform all state agencies
416 that administer non-federal grant funding of the adjudicated
417 violation by the state entity, local governmental entity, or law
418 enforcement agency and direct such agencies to cancel all
419 pending grant applications and enforce the ineligibility of such
420 entity for the prescribed period.

421 (3) This subsection does not apply to:

422 (a) Funding that is received as a result of an
423 appropriation to a specifically named state entity, local
424 governmental entity, or law enforcement agency in the General
425 Appropriations Act or other law.

426 (b) Grants awarded before the date of adjudication that
427 such state entity, local governmental entity, or law enforcement
428 agency had in effect a sanctuary policy in violation of this
429 chapter.

430 PART IV

431 MISCELLANEOUS

432 908.401 Education records.—This chapter does not apply to
433 the release of information contained in education records of an
434 educational agency or institution, except in conformity with the
435 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
436 1232g.

437 908.402 Discrimination prohibited.—A state entity, a local
438 governmental entity, or a law enforcement agency, or a person
439 employed by or otherwise under the direction or control of such
440 an entity, may not base its actions under this chapter on the
441 gender, race, religion, national origin, or physical disability
442 of a person except to the extent permitted by the United States
443 Constitution or the state constitution.

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

448 Section 4. Sections 908.302 and 908.303, Florida Statutes,
449 as created by this act, shall take effect October 1, 2019, and,
450 except as otherwise expressly provided in this act, this act

CS/CS/HB 527, Engrossed 1

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451 | shall take effect July 1, 2019.