A bill to be entitled
An act relating to federal immigration enforcement;
providing a short title; creating chapter 908, F.S.,
relating to federal immigration enforcement; providing
legislative findings and intent; providing
definitions; prohibiting sanctuary policies; requiring
state entities, local governmental entities, and law
enforcement agencies to comply with and support the
enforcement of federal immigration law; specifying
duties concerning certain arrested persons; specifying
duties concerning immigration detainers; prohibiting
restrictions by such entities and agencies on taking
certain actions with respect to information regarding
a person's immigration status; providing requirements
concerning certain criminal defendants subject to
immigration detainers or otherwise subject to transfer
to federal custody; authorizing a law enforcement
agency to transport an unauthorized alien under
certain circumstances; providing an exception to
reporting requirements for crime victims or witnesses;
requiring recordkeeping relating to crime victim and
witness cooperation in certain investigations;
authorizing a board of county commissioners to adopt
an ordinance to recover costs for complying with an
immigration detainer; authorizing local governmental
entities and law enforcement agencies to petition the Federal Government for reimbursement of certain costs; requiring report of violations; providing penalties for failure to report a violation; providing whistle-blower protections for persons who report violations; requiring the Attorney General to prescribe the format for submitting complaints; providing requirements for entities to comply with document requests from state attorneys concerning violations; providing for investigation of possible violations; providing for injunctive relief and civil penalties; requiring written findings; prohibiting the expenditure of public funds for specified purposes; providing a cause of action for personal injury or wrongful death attributed to a sanctuary policy; providing that a trial by jury is a matter of right; requiring written findings; providing for applicability to certain education records; prohibiting discrimination on specified grounds; providing for implementation; requiring repeal of existing sanctuary policies within a specified period; providing effective dates.

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

Section 1. Short title.—This act may be cited as the "Rule
Section 2. Chapter 908, Florida Statutes, consisting of sections 908.101–908.402, is created to read:

CHAPTER 908
FEDERAL IMMIGRATION ENFORCEMENT
PART I
FINDINGS AND DEFINITIONS

908.101 Legislative findings and intent.—The Legislature finds that it is an important state interest that state entities, local governmental entities, and their officials owe an affirmative duty to all citizens and other persons lawfully present in the United States to assist the Federal Government with enforcement of federal immigration laws within this state, including complying 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 entities, 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, the United States Department of Homeland Security, or any successor agency and any division of such agency, including United States Immigration and Customs Enforcement, United States Customs and Border Protection, or any other federal agency charged with the enforcement of immigration law. The term includes an official or employee of such agency.

(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. For purposes of this subsection, an immigration detainer is deemed facially sufficient if:

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

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

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

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

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

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

(a) Complying with an immigration detainer;

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

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

(d) Initiating an immigration status investigation; or

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

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

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

PART II
DUTIES

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

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

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

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

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

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

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

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

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

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

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

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

2. The judge:

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

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

(b) In a criminal case described by paragraph (a), the judge shall, at the time of pronouncement of a sentence of confinement, issue an order requiring the secure correctional facility in which the defendant is to be confined to reduce the

CODING: Words stricken are deletions; words underlined are additions.
defendant's sentence by a period of not more than 7 days on the
facility's determination that the reduction in sentence will
facilitate the seamless transfer of the defendant into federal
custody. For purposes of this paragraph, the term "secure
correctional facility" means a state correctional institution,
as defined in s. 944.02, or a county detention facility or a
municipal detention facility, as defined in s. 951.23.

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

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

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

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

908.203 Duties related to certain arrested persons.—

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

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

(b) If information obtained under paragraph (a) reveals that the person is not a citizen of the United States and is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq., the law enforcement agency shall:
1. Provide immediate notice of the person's arrest and charges to a federal immigration agency.

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

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

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

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

908.204 Duties related to immigration detainer.—

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

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

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

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

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

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

908.205 Reimbursement of costs.—
(1) A board of county commissioners may adopt an ordinance
requiring a person detained pursuant to an immigration detainer
to reimburse the county for any expenses incurred in detaining
the person pursuant to the immigration detainer. A person
detained pursuant to an immigration detainer is not liable under
this section if a federal immigration agency determines that the
immigration detainer was improperly issued.

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

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

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

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

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

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

PART III

ENFORCEMENT

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

908.302 Enforcement; penalties.—

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

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

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

1. The complaint has been filed.
2. The state attorney has determined that the complaint is valid.
3. The state attorney is authorized to file an action to enjoin the violation if the entity does not come into compliance with the requirements of this chapter on or before the 60th day after the notification is provided.

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

1. The entity's written policies and procedures with respect to federal immigration agency enforcement actions, including the entity's policies and procedures with respect to immigration detainers.
2. Each immigration detainer received by the entity from a federal immigration agency in the current calendar year-to-date and the two prior calendar years.
3. Each response sent by the entity for an immigration detainer described by subparagraph 2.

(3) The Attorney General, the state attorney who conducted the investigation, or a state attorney ordered by the Governor
pursuant to s. 27.14 may institute proceedings in circuit court to enjoin a state entity, local governmental entity, or law enforcement agency found to be in violation of this chapter. The court shall expedite an action under this section, including setting a hearing at the earliest practicable date.

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

(5) An order approving a consent decree or granting an injunction or civil penalties pursuant to subsection (4) must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy in violation of s. 908.201 and that identify each sanctuary policymaker who voted for, allowed to be implemented, or voted against repeal or prohibition of the sanctuary policy. The court shall provide a
copy of the consent decree or order granting an injunction or civil penalties that contains the written findings required by this subsection to the Governor within 30 days after the date of rendition. A sanctuary policymaker identified in an order approving a consent decree or granting an injunction or civil penalties may be suspended or removed from office pursuant to general law and s. 7, Art. IV of the State Constitution.

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

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

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

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

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

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

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

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

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

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

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

908.304 Ineligibility for state grant funding.—

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

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

(3) This subsection does not apply to:

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

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

PART IV
MISCELLANEOUS

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

908.402 Discrimination prohibited.—A state entity, a local governmental entity, or a law enforcement agency, or a person employed by or otherwise under the direction or control of such an entity, may not base its actions under this chapter on the
Section 3. A sanctuary policy, as defined in s. 908.102, Florida Statutes, as created by this act, that is in effect on the effective date of this act must be repealed within 90 days after that date.

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