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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Simmons) recommended the following:

1 **Senate Substitute for Amendment (246112) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

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

10 908.101 Legislative findings and intent.—The Legislature
11 finds that it is an important state interest to cooperate and



941354

12 assist the federal government in the enforcement of federal
13 immigration laws within this state.

14 908.102 Definitions.—As used in this chapter, the term:

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

23 (2) "Immigration detainer" means a facially sufficient
24 written or electronic request issued by a federal immigration
25 agency using that agency's official form to request that another
26 law enforcement agency detain a person based on probable cause
27 to believe that the person to be detained is a removable alien
28 under federal immigration law, including detainers issued
29 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this
30 subsection, an immigration detainer is deemed facially
31 sufficient if:

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

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



941354

41 other official documentation that indicates that the federal
42 immigration agency has probable cause to believe that the person
43 to be detained is a removable alien under federal immigration
44 law.

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

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

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

58 (6) "Sanctuary policy" means a law, policy, practice,
59 procedure, or custom adopted or permitted by a state entity,
60 local governmental entity, or law enforcement agency which
61 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly
62 prohibits or impedes a law enforcement agency from communicating
63 or cooperating with a federal immigration agency with respect to
64 federal immigration enforcement, including, but not limited to,
65 limiting a state entity, local governmental entity, or law
66 enforcement agency in, or prohibiting such an entity or agency
67 from:

68 (a) Complying with an immigration detainer;

69 (b) Complying with a request from a federal immigration



941354

70 agency to notify the agency before the release of an inmate or
71 detainee in the custody of the state entity, local governmental
72 entity, or law enforcement agency;

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

75 (d) Initiating an immigration status investigation; or

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

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

84 908.201 Sanctuary policies prohibited.—A state entity, law
85 enforcement agency, or local governmental entity may not adopt
86 or have in effect a sanctuary policy.

87 908.202 Cooperation with federal immigration authorities.—

88 (1) A state entity, local governmental entity, or law
89 enforcement agency shall use best efforts to support the
90 enforcement of federal immigration law. This subsection applies
91 to an official, representative, agent, or employee of the entity
92 or agency only when he or she is acting within the scope of his
93 or her official duties or within the scope of his or her
94 employment.

95 (2) Except as otherwise expressly prohibited by federal
96 law, a state entity, local governmental entity, or law
97 enforcement agency may not prohibit or in any way restrict
98 another state entity, local governmental entity, or law



941354

99 enforcement agency from taking any of the following actions with
100 respect to information regarding a person's immigration status:

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

104 (b) Recording and maintaining the information for purposes
105 of this chapter.

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

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

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

118 (f) Using the information to comply with an immigration
119 detainer.

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

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

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

126 2. The judge:

127 a. Indicates in the record under s. 908.204 that the



941354

128 defendant is subject to an immigration detainer; or
129 b. Otherwise indicates in the record that the defendant is
130 subject to a transfer into federal custody.
131 (b) In an applicable criminal case, at the time of
132 pronouncement of a sentence of confinement, the judge shall
133 issue an order requiring the secure correctional facility in
134 which the defendant is to be confined to reduce the defendant's
135 sentence by a period of not more than 7 days on the facility's
136 determination that the reduction in sentence will facilitate the
137 seamless transfer of the defendant into federal custody. For
138 purposes of this paragraph, the term "secure correctional
139 facility" means a state correctional institution as defined in
140 s. 944.02 or a county detention facility or a municipal
141 detention facility as defined in s. 951.23.
142 (c) If the information specified in sub-subparagraph
143 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
144 the sentence is pronounced in the case, the judge shall issue
145 the order described by paragraph (b) as soon as the information
146 becomes available.
147 (4) When a law enforcement agency receives verification
148 from a federal immigration agency that an alien in the law
149 enforcement agency's custody is unlawfully present in the United
150 States, the agency may securely transport the alien to a federal
151 facility in this state or to another point of transfer to
152 federal custody outside the jurisdiction of the law enforcement
153 agency. However, the law enforcement agency may transport an
154 alien who is confined in a secure correctional facility only
155 upon authorization by a court order unless the transportation
156 will occur within the 7 day period under subsection (3). A law



941354

157 enforcement agency shall obtain judicial authorization before
158 securely transporting an alien to a point of transfer outside of
159 this state.

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

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

175 908.203 Duties related to certain arrested persons.-

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

181 (a) Shall review any information available from a federal
182 immigration agency.

183 (b) If information obtained under paragraph (a) reveals
184 that the person is not a citizen of the United States and is
185 unlawfully present in the United States according to the terms



941354

186 of the federal Immigration and Nationality Act, 8 U.S.C. ss.
187 1101 et seq., unless good cause is shown in the furtherance of
188 safety and law enforcement practices, must:

189 1. Provide prompt notice of the person's arrest and charges
190 to a federal immigration agency.

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

193 3. Record the person's arrest and charges in the person's
194 case file.

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

200 (3) A judge who receives notice of a person's immigration
201 status under this section shall cause the status to be recorded
202 in the court record.

203 908.204 Duties related to immigration detainers.—

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

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

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

212 (c) Upon determining that the immigration detainer is in
213 accordance with s. 908.102(2), comply with the requests made in
214 the immigration detainer.



941354

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

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

224 908.205 Reimbursement of costs.—

225 (1) A board of county commissioners may adopt an ordinance
226 requiring a person detained pursuant to an immigration detainer
227 to reimburse the county for any expenses incurred in detaining
228 the person pursuant to the immigration detainer. A person
229 detained pursuant to an immigration detainer is not liable under
230 this section if a federal immigration agency determines that the
231 immigration detainer was improperly issued.

232 (2) A local governmental entity or law enforcement agency
233 shall enter into an agreement for payment for detaining aliens
234 and complying with federal requests when the costs are incurred
235 in support of the enforcement of federal immigration law.
236 Compliant agreements include any basic ordering agreements
237 between the U.S. Immigration and Customs Enforcement and state
238 and local law enforcement agencies in effect on July 1, 2019, or
239 similar agreements and other agreements authorized by federal
240 law.

241 908.302 Enforcement.—

242 (1) Upon adjudication by the court or as provided in a
243 consent decree declaring that a state entity, local governmental



941354

244 entity, or law enforcement agency has violated this chapter, the
245 court shall enjoin the unlawful sanctuary policy and may award
246 reasonable costs and attorney fees to the plaintiff. The court
247 has continuing jurisdiction over the parties and subject matter
248 and may enforce its orders with the initiation of contempt
249 proceedings as provided by law.

250 (2) An order approving a consent decree or granting an
251 injunction must include written findings of fact that describe
252 with specificity the existence and nature of the sanctuary
253 policy that is in violation of s. 908.201.

254 908.401 Education records.—This chapter does not apply to
255 the release of information contained in education records of an
256 educational agency or institution, except in conformity with the
257 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
258 1232g.

259 908.402 Discrimination prohibited.—A state entity, a local
260 governmental entity, or a law enforcement agency, or a person
261 employed by or otherwise under the direction or control of the
262 entity or agency, may not base its actions under this chapter on
263 the gender, race, religion, national origin, or physical
264 disability of a person except to the extent authorized by the
265 United States Constitution or the State Constitution.

266 Section 3. A sanctuary policy, as defined in s. 908.102,
267 Florida Statutes, as created by this act, that is in effect on
268 the effective date of this act violates the public policy of
269 this state and must be repealed within 90 days after that date.

270 Section 4. Section 908.302, Florida Statutes, as created by
271 this act, shall take effect October 1, 2019, and, except as
272 otherwise expressly provided in this act, this act shall take



941354

273 effect July 1, 2019.

274

275 ===== T I T L E A M E N D M E N T =====

276 And the title is amended as follows:

277 Delete everything before the enacting clause

278 and insert:

279 A bill to be entitled

280 An act relating to federal immigration enforcement;
281 providing a short title; creating chapter 908, F.S.,
282 relating to federal immigration enforcement; providing
283 legislative findings and intent; providing
284 definitions; prohibiting sanctuary policies; requiring
285 state entities, local governmental entities, and law
286 enforcement agencies to use best efforts to support
287 the enforcement of federal immigration law;
288 prohibiting restrictions by the entities and agencies
289 on taking certain actions with respect to information
290 regarding a person's immigration status; providing
291 requirements concerning certain criminal defendants
292 subject to immigration detainers or otherwise subject
293 to transfer to federal custody; authorizing a law
294 enforcement agency to transport an alien unlawfully
295 present in the United States under certain
296 circumstances; providing an exception to reporting
297 requirements for crime victims or witnesses; requiring
298 recordkeeping relating to crime victim and witness
299 cooperation in certain investigations; specifying
300 duties concerning certain arrested persons; specifying
301 duties concerning immigration detainers; requiring



941354

302 local government entities and law enforcement agencies
303 to enter agreements for payments for complying with
304 immigration detainers; providing for injunctive relief
305 and awards of costs and attorney fees to prevailing
306 plaintiffs; providing for applicability to certain
307 education records; prohibiting discrimination on
308 specified grounds; providing for implementation;
309 requiring repeal of existing sanctuary policies within
310 a specified period; providing effective dates.
311