

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; prohibiting  
10          restrictions by such entities and agencies on taking  
11          certain actions with respect to information regarding  
12          a person's immigration status; authorizing a law  
13          enforcement agency to transport an unauthorized alien  
14          under certain circumstances; providing an exception to  
15          reporting requirements for crime victims or witnesses;  
16          requiring recordkeeping relating to crime victim and  
17          witness cooperation in certain investigations;  
18          authorizing a board of county commissioners to adopt  
19          an ordinance to recover costs for complying with an  
20          immigration detainer; requiring reporting of  
21          violations; providing penalties for failing to report  
22          a violation; providing whistle-blower protections for  
23          persons who report violations; providing for  
24          investigation of possible violations; providing for  
25          injunctive relief and civil penalties; providing for  
26          costs and attorney fees; prohibiting the expenditure

27 of public funds for specified purposes; requiring the  
 28 Attorney General to prescribe the format for  
 29 submitting complaints; providing a cause of action for  
 30 personal injury or wrongful death attributed to a  
 31 sanctuary policy; providing that a trial by jury is a  
 32 matter of right; waiving sovereign immunity for such  
 33 actions; providing for implementation; requiring  
 34 repeal of existing sanctuary policies within a  
 35 specified period; providing an effective date.

36  
 37 Be It Enacted by the Legislature of the State of Florida:

38  
 39 Section 1. Short title.—This act may be cited as the "Rule  
 40 of Law Adherence Act."

41 Section 2. Chapter 908, Florida Statutes, consisting of  
 42 sections 908.001-908.0010, is created to read:

43 CHAPTER 908

44 FEDERAL IMMIGRATION ENFORCEMENT

45 908.001 Legislative findings and intent.—The Legislature  
 46 finds it is an important state interest that state agencies,  
 47 local governments, and their officials owe an affirmative duty  
 48 to all citizens and other persons lawfully within the United  
 49 States to assist the Federal Government with enforcement of  
 50 federal immigration laws within this state, including complying  
 51 with federal immigration detainers. The Legislature further  
 52 finds it is an important state interest that, in the interest of

53 public safety and adherence to federal law, this state support  
54 federal immigration enforcement efforts and ensure that such  
55 efforts are not impeded or thwarted by state or local laws,  
56 policies, practices, procedures, or customs. State agencies,  
57 local governments, and their officials who encourage persons  
58 unlawfully present in the United States to locate within this  
59 state or who shield such persons from personal responsibility  
60 for their unlawful actions breach this duty and should be held  
61 accountable.

62 908.002 Definitions.—As used in this chapter, the term:

63 (1) "Federal immigration agency" means the United States  
64 Department of Homeland Security, or its successor agency, and  
65 any of its divisions, including United States Immigration and  
66 Customs Enforcement, United States Customs and Border  
67 Protection, or any other federal agency charged with the  
68 enforcement of immigration law. The term includes an official or  
69 employee of such agency.

70 (2) "Immigration detainer" means a facially sufficient  
71 written or electronic request issued by a federal immigration  
72 agency using that agency's official form to request that another  
73 law enforcement agency detain a person based on an inquiry into  
74 the person's immigration status or an alleged violation of a  
75 civil immigration law, including detainers issued pursuant to 8  
76 U.S.C. ss. 1226 and 1357. For purposes of this subsection, an  
77 immigration detainer is deemed facially sufficient if:

78 (a) The federal immigration agency's official form is

79 complete and indicates on its face that the federal immigration  
80 official has reason to believe that the person to be detained  
81 may not have been lawfully admitted to the United States or  
82 otherwise is not lawfully present in the United States; or

83 (b) The federal immigration agency's official form is  
84 incomplete and fails to indicate on its face that the federal  
85 immigration official has reason to believe that the person to be  
86 detained may not have been lawfully admitted to the United  
87 States or otherwise is not lawfully present in the United  
88 States, but is supported by an accompanying affidavit or order  
89 that indicates the federal immigration official has reason to  
90 believe that the person to be detained may not have been  
91 lawfully admitted to the United States or otherwise is not  
92 lawfully present in the United States.

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

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

102 (5) "Local governmental entity" means any county,  
103 municipality, or other political subdivision of this state. The  
104 term includes a person holding public office or having official

105 duties as a representative, agent, or employee of such entity.

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

115 (a) Complying with an immigration detainer;

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

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

122 (d) Initiating an immigration status investigation; or

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

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

130 (8) "State entity" means the state or any office, board,

131 bureau, commission, department, branch, division, or institution  
132 thereof. The term includes a person holding public office or  
133 having official duties as a representative, agent, or employee  
134 of such entity.

135 908.003 Sanctuary policies prohibited.—A state entity, law  
136 enforcement agency, or local governmental entity may not adopt  
137 or have in effect a sanctuary policy.

138 908.004 Cooperation with federal immigration authorities.—

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

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

148 (b) Maintaining such information for purposes of this  
149 chapter.

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

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

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

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

164 (2) A state entity, local governmental entity, or law  
165 enforcement agency shall fully comply with and, to the full  
166 extent permitted by law, support the enforcement of federal  
167 immigration law. This subsection is only applicable to an  
168 official, representative, agent, or employee of such entity or  
169 agency when he or she is acting within the scope of his or her  
170 official duties or within the scope of his or her employment.

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

181 (4) This section does not require a state entity, local  
182 governmental entity, or law enforcement agency to provide a

183 federal immigration agency with information related to a victim  
184 of or a witness to a criminal offense if such victim or witness  
185 timely and in good faith responds to the entity's or agency's  
186 request for information and cooperation in the investigation or  
187 prosecution of such offense.

188 (5) A state entity, local governmental entity, or law  
189 enforcement agency that, pursuant to subsection (4), withholds  
190 information regarding the immigration information of a victim of  
191 or witness to a criminal offense shall document such victim's or  
192 witness's cooperation in the entity's or agency's investigative  
193 records related to the offense and shall retain such records for  
194 at least 10 years for the purpose of audit, verification, or  
195 inspection by the Auditor General.

196 908.005 Reimbursement of costs for complying with an  
197 immigration detainer.—A board of county commissioners may adopt  
198 an ordinance requiring a person detained pursuant to a lawful  
199 and valid immigration detainer to reimburse the county for any  
200 expenses incurred in detaining the person pursuant to the  
201 immigration detainer. A person detained pursuant to an  
202 immigration detainer is not liable under this section if a  
203 federal immigration agency determines that the immigration  
204 detainer was improperly issued.

205 908.006 Duty to report.—

206 (1) An official, representative, agent, or employee of a  
207 state entity, local governmental entity, or law enforcement  
208 agency shall promptly report a known or probable violation of



209 this chapter to the Attorney General or the state attorney  
210 having jurisdiction over the entity or agency.

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

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

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

230 908.007 Enforcement; penalties.-

231 (1) The state attorney for the county in which a state  
232 entity is headquartered or in which a local governmental entity  
233 or law enforcement agency is located has primary responsibility  
234 and authority for investigating credible reports of a violation

235 of this chapter. The results of an investigation by a state  
236 attorney shall be provided to the Attorney General in a timely  
237 manner.

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

245 (3) Upon adjudication by the court or as provided in a  
246 consent decree declaring that a state entity, local governmental  
247 entity, or law enforcement agency has violated this chapter, the  
248 court shall enjoin the unlawful policy or practice and order  
249 that such entity or agency pay a civil penalty to the state of  
250 at least \$1,000 but not more than \$5,000 for each day that the  
251 policy or practice was in effect before the injunction was  
252 granted. The court shall have continuing jurisdiction over the  
253 parties and subject matter and may enforce its orders with  
254 imposition of additional civil penalties as provided for in this  
255 section and contempt proceedings as provided by law.

256 (4) A state entity, local governmental entity, or law  
257 enforcement agency ordered to pay a civil penalty pursuant to  
258 subsection (3) shall remit payment to the Chief Financial  
259 Officer, who shall deposit such payment into the General Revenue  
260 Fund.

261       (5) The court may award court costs and reasonable  
262 attorney fees to the prevailing party in an action brought  
263 pursuant to this section.

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

269       908.008 Resident complaint; penalties.—The Attorney  
270 General shall prescribe and provide through the Department of  
271 Legal Affairs' website the format for a person to submit a  
272 complaint alleging a violation of this chapter. This section  
273 does not prohibit the filing of an anonymous complaint or a  
274 complaint not submitted in the prescribed format.

275       908.009 Civil cause of action for personal injury or  
276 wrongful death attributed to a sanctuary policy; trial by jury;  
277 waiver of sovereign immunity.—

278       (1) A person injured by the tortious acts or omissions of  
279 an alien unlawfully present in the United States, or the  
280 personal representative of a person killed by the tortious acts  
281 or omissions of an alien unlawfully present in the United  
282 States, has a cause of action for damages against a state  
283 entity, local governmental entity, or law enforcement agency in  
284 violation of s. 908.003 and s. 908.004, and any sanctuary  
285 policymaker of any such entity or agency, upon proof by the  
286 greater weight of the evidence of:

287        (a) The existence of a sanctuary policy in violation of s.  
 288        908.003; and

289        (b) A failure to comply with any provision of s. 908.004  
 290        resulting in such alien's having access to the person injured or  
 291        killed when the tortious acts or omissions occurred.

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

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

299        (4) In accordance with s. 13, Art. X of the State  
 300        Constitution, the state, for itself and its political  
 301        subdivisions, waives sovereign immunity for actions brought  
 302        under this section. In addition, s. 768.28(9) does not apply to  
 303        a sanctuary policymaker in a claim brought pursuant to this  
 304        section.

305        (5) This chapter does not create a private cause of action  
 306        against a state entity, local governmental entity, or law  
 307        enforcement agency that complies with this chapter.

308        908.0010 Implementation.—This chapter shall be implemented  
 309        to the fullest extent permitted by federal law regulating  
 310        immigration and the legislative findings and intent declared in  
 311        s. 908.001.

312        Section 3. A sanctuary policy, as defined in s. 908.002,

CS/CS/HB 675

2016

313 Florida Statutes, as created by this act, that is in effect on  
314 the effective date of this act must be repealed within 90 days  
315 after that date.

316       Section 4. This act shall take effect July 1, 2016.