

By Senator Bean

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1 A bill to be entitled
2 An act relating to federal immigration enforcement;
3 providing a short title; creating ch. 908, F.S.,
4 relating to federal immigration enforcement; providing
5 legislative findings and intent; defining terms;
6 prohibiting sanctuary policies; requiring a state or
7 local governmental agency to comply with and support
8 the enforcement of federal immigration law;
9 prohibiting restrictions by state and local government
10 entities and officials on the transfer of information
11 regarding citizenship or immigration status of an
12 individual, action taken with respect to such
13 information, or enforcement of federal immigration
14 law; authorizing a law enforcement agency to transport
15 an unauthorized alien under certain circumstances;
16 providing an exception to reporting requirements for
17 crime victims or witnesses; requiring state and local
18 government officials to report violations; providing
19 penalties for failing to report a violation; providing
20 for injunctive relief and civil penalties; providing
21 for costs and attorney fees; requiring the Attorney
22 General to prescribe the format for submitting
23 complaints; providing a cause of action for personal
24 injury or wrongful death attributed to a sanctuary
25 policy; providing that a trial by jury is a matter of
26 right; waiving sovereign immunity for such actions;
27 providing for implementation; providing an effective
28 date.
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30 Be It Enacted by the Legislature of the State of Florida:

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

34 Section 2. Chapter 908, Florida Statutes, consisting of
35 sections 908.001-908.013, is created to read:

36 CHAPTER 908

37 FEDERAL IMMIGRATION ENFORCEMENT

38 908.001 Legislative findings and intent.—The Legislature
39 finds that state agencies, local governments, and their
40 officials owe an affirmative duty to all citizens and other
41 persons lawfully within the United States to assist the Federal
42 Government with enforcement of federal immigration laws within
43 this state. The Legislature further finds that, in the interest
44 of public safety and adherence to federal law, this state shall
45 support federal immigration enforcement efforts and ensure that
46 such efforts are not impeded or thwarted by state or local laws,
47 policies, practices, procedures, or customs. State agencies,
48 local governments, and their officials who encourage persons
49 unlawfully present in the United States to locate within this
50 state or who shield such persons from personal responsibility
51 for their unlawful actions breach this duty and should be held
52 accountable.

53 908.003 Definitions.—As used in this chapter, the term:

54 (1) “Federal immigration agency” means the United States
55 Department of Homeland Security, or its successor agency, and
56 any of its divisions, including United States Immigration and
57 Customs Enforcement, United States Customs and Border
58 Protection, or any other federal agency charged with the

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59 enforcement of immigration law.

60 (2) "Federal immigration official" means an official of a
61 federal immigration agency.

62 (3) "Immigration detainer" means a written request issued
63 on behalf of a federal immigration agency to another federal,
64 state, or local law enforcement agency to provide notice of
65 release and to detain an individual based on an inquiry into
66 immigration status or an alleged violation of a civil
67 immigration law, including detainers issued pursuant to 8 C.F.R.
68 s. 287.7 and 8 C.F.R. s. 236.1 and on the United States
69 Department of Homeland Security Form I-247N "Request for
70 Voluntary Notification of Release of Suspected Priority Alien"
71 or Form I-247D "Immigration Detainer-Request for Voluntary
72 Action."

73 (4) "Inmate" means an individual in the custody of a law
74 enforcement agency.

75 (5) "Law enforcement agency" means an agency in this state
76 charged with enforcement of state, county, municipal, or federal
77 laws or with managing custody of detained persons in the state
78 and includes municipal police departments, sheriff's offices,
79 state police departments, campus police departments, and the
80 Department of Corrections.

81 (6) "Local governmental entity" means any county,
82 municipality, or other political subdivision of this state.

83 (7) "Local government official" means a person holding
84 public office or having official duties as a representative,
85 agent, or employee of a local governmental entity.

86 (8) "Sanctuary policy" means a law, policy, practice,
87 procedure, or custom adopted or permitted by a state entity,

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88 state official, law enforcement agency, local governmental
 89 entity, or local government official which contravenes
 90 subsection (a) or subsection (b) of s. 642 of the Illegal
 91 Immigration Reform and Immigrant Responsibility Act of 1996, 8
 92 U.S.C. s. 1373, or which prohibits or impedes a law enforcement
 93 agency from communicating or cooperating with a federal
 94 immigration agency or a federal immigration official with
 95 respect to federal immigration enforcement, including, but not
 96 limited to, cooperation with immigration detainers.

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

102 (10) "State entity" means the state or any office, board,
 103 bureau, commission, department, branch, division, or institution
 104 thereof.

105 (11) "State official" means a person holding public office
 106 or having official duties as a representative, an agent, or an
 107 employee of this state.

108 908.005 Sanctuary policies prohibited.—A state entity,
 109 state official, law enforcement agency, local governmental
 110 entity or local government official may not adopt or have in
 111 effect a sanctuary policy.

112 908.006 Cooperation with federal immigration authorities.—

113 (1) A state or local governmental entity or official or a
 114 law enforcement agency may not prohibit or in any way restrict
 115 another state or local governmental entity or official or law
 116 enforcement agency from sending to, or receiving from, a federal

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117 immigration agency or federal immigration official information
118 regarding the citizenship or immigration status of an
119 individual.

120 (2) Except as otherwise expressly prohibited by federal
121 law, a state or local governmental entity or official or a law
122 enforcement agency may not restrict another state or local
123 governmental entity or official or law enforcement agency from
124 taking any of the following actions with respect to information
125 regarding the immigration status of an individual:

126 (a) Sending such information to or requesting or receiving
127 such information from a federal immigration agency or federal
128 immigration official for purposes of this chapter.

129 (b) Maintaining such information for purposes of this
130 chapter.

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

135 (d) Determining eligibility for a public benefit, service,
136 or license pursuant to federal or state law or an ordinance or
137 regulation of a local governmental entity.

138 (e) Verifying a claim of residence or domicile if a
139 determination of residence or domicile is required under federal
140 or state law or an ordinance or a regulation of any local
141 governmental entity or under a judicial order issued pursuant to
142 a civil or criminal proceeding in this state.

143 (f) Confirming the identity of an individual who is
144 detained by a law enforcement agency or its officials.

145 (3) A state or local governmental entity or official or a

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146 law enforcement agency shall fully comply with and, to the full
147 extent permitted by law, support the enforcement of federal
148 immigration law.

149 (4) A state or local governmental entity or official or a
150 law enforcement agency may not limit or restrict the enforcement
151 of federal immigration law, including, but not limited to,
152 limiting or restricting a state or local governmental entity or
153 official or a law enforcement agency from complying with an
154 immigration detainer, providing a federal immigration official
155 access to an inmate for interview, initiating an immigration
156 status investigation, or providing a federal immigration
157 official with the incarceration status or release date of an
158 inmate in the custody of a state or local governmental entity or
159 law enforcement agency.

160 (5) Notwithstanding any other provision of law, if a law
161 enforcement agency or official has received verification from a
162 federal immigration agency or official that an unauthorized
163 alien in the law enforcement agency's custody is unlawfully
164 present in the United States, the law enforcement agency may
165 securely transport such alien to a federal facility in this
166 state or to another point of transfer to federal custody which
167 is outside the jurisdiction of the law enforcement agency. A law
168 enforcement agency shall obtain judicial authorization before
169 securely transporting an unauthorized alien to a point of
170 transfer outside of this state.

171 (6) This section does not require a state or local agency
172 or official or a state or local law enforcement agency to
173 provide a federal immigration agency or official with
174 information related to a victim of or a witness to a criminal

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175 offense, if such victim or witness timely and in good faith
176 responds to the state or local agency or official's request for
177 information and cooperation in the investigation or prosecution
178 of such offense.

179 908.007 Duty to report.—A state or a local government
180 official shall promptly report a known or probable violation of
181 this chapter to the Attorney General or the state attorney
182 having jurisdiction over the local governmental entity. A person
183 who willfully and knowingly fails to report a known or probable
184 violation of this chapter may be suspended or removed from
185 office pursuant to general law and s. 7, Art. IV of the State
186 Constitution.

187 908.009 Enforcement; penalties.—

188 (1) The Attorney General or a state attorney may institute
189 proceedings in circuit court to enjoin a state entity, state
190 official, law enforcement agency, local governmental entity, or
191 local government official found to be in violation of this
192 chapter. The court shall expedite an action under this section,
193 including setting a hearing at the earliest practicable date.

194 (2) Upon adjudication by the court or as provided in a
195 consent motion declaring that a state entity, state official,
196 law enforcement agency, local governmental entity, or local
197 government official has violated this chapter, the court shall
198 enjoin the unlawful policy or practice and order that such
199 entity or official pay a civil penalty to the state of at least
200 \$1,000 but not more than \$5,000 for each day that the policy or
201 practice was found to be in effect before the injunction was
202 granted. The court shall have continuing jurisdiction over the
203 parties and subject matter and may enforce its orders with

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204 imposition of additional civil penalties as provided for in this
205 section and contempt proceedings as provided by law.

206 (3) A state or local entity or official or a law
207 enforcement agency ordered to pay a civil penalty pursuant to
208 subsection (2) shall remit payment to the Chief Financial
209 Officer for appropriation as provided in the General
210 Appropriations Act, or if not provided for in the General
211 Appropriations Act, such funds shall revert to the General
212 Revenue Fund.

213 (4) The court may award court costs and reasonable attorney
214 fees to the prevailing party in an action brought pursuant to
215 this section.

216 908.011 Resident complaint; penalties.—The Attorney General
217 shall prescribe and provide through the Department of Legal
218 Affairs' website the format for a person to submit a complaint
219 alleging a violation of this chapter. This section does not
220 prohibit the filing of an anonymous complaint or a complaint not
221 submitted in the prescribed format.

222 908.012 Civil cause of action for personal injury or
223 wrongful death attributed to a sanctuary policy; trial by jury;
224 waiver of sovereign immunity.—

225 (1) A person injured by the tortious acts or omissions of
226 an alien unlawfully present in the United States, or the
227 personal representative of a person killed by the tortious acts
228 or omissions of an alien unlawfully present in the United
229 States, has a cause of action to recover all damages otherwise
230 permitted by law in such cases against any state or local
231 governmental entity or law enforcement agency in violation of s.
232 908.005, and any sanctuary policymaker of any such governmental

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233 entity or law enforcement agency, upon proof by the greater
234 weight of the evidence of:

235 (a) The existence of a sanctuary policy; and

236 (b) A failure to comply with any provision of s. 908.006
237 resulting in such alien having access to the person injured or
238 killed when the tortious acts or omissions occurred.

239 (2) Trial by jury is a matter of right in actions brought
240 under this section.

241 (3) In accordance with s. 13, Art. X of the State
242 Constitution, the state, for itself and its political
243 subdivisions, waives sovereign immunity for actions brought
244 under this section. In addition, s. 768.28(9) does not apply to
245 a sanctuary policymaker.

246 908.013 Implementation.—This chapter shall be implemented
247 to the fullest extent permitted by federal law regulating
248 immigration and the legislative findings and intent declared in
249 s. 908.001.

250 Section 3. This act shall take effect July 1, 2016.