

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; 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; providing
10 applicability; prohibiting restrictions by such
11 entities and agencies on taking certain actions with
12 respect to information regarding a person's
13 immigration status; providing applicability; providing
14 requirements concerning certain criminal defendants
15 subject to immigration detainers or otherwise subject
16 to transfer to federal custody; authorizing a law
17 enforcement agency to transport an unauthorized alien
18 under certain circumstances; providing an exception to
19 reporting requirements for crime victims or witnesses;
20 requiring recordkeeping relating to crime victim and
21 witness cooperation in certain investigations;
22 specifying duties concerning certain arrested persons;
23 specifying duties concerning immigration detainers;
24 authorizing a board of county commissioners to adopt
25 an ordinance to recover costs for complying with an
26 immigration detainer; providing that a person detained
27 pursuant to an immigration detainer is not liable for
28 detention expenses if the immigration detainer is
29 found to be improperly issued; authorizing local
30 governmental entities and law enforcement agencies to
31 petition the Federal Government for reimbursement of
32 certain costs; requiring report of violations;

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33 providing penalties for failure to report a violation;
34 providing whistle-blower protections for persons who
35 report violations; providing implementation; requiring
36 the Attorney General to prescribe the format for
37 submitting complaints; providing construction;
38 providing responsibilities and authority of state
39 attorneys for investigations of such complaints;
40 providing report requirements; providing requirements
41 for entities to comply with document requests from
42 state attorneys concerning violations; providing
43 investigation of possible violations; providing
44 injunctive relief and penalties; requiring written
45 findings; prohibiting the expenditure of public funds
46 for specified purposes; providing a cause of action
47 for personal injury or wrongful death attributed to a
48 sanctuary policy; prohibiting a cause of action from
49 being brought against certain persons; providing that
50 a trial by jury is a matter of right; requiring
51 written findings under certain circumstances;
52 requiring the court to send a copy of the final
53 judgment to the Governor; providing penalties;
54 providing construction; providing that state entities,
55 local governmental entities, and law enforcement
56 agencies that have a sanctuary policy are ineligible
57 for certain funding; providing notification
58 requirements; providing exceptions; providing
59 applicability to certain education records;
60 prohibiting discrimination on specified grounds;
61 providing implementation; requiring repeal of existing

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62 sanctuary policies within a specified period;
63 providing effective dates.

64
65 Be It Enacted by the Legislature of the State of Florida:

66
67 Section 1. Short title.—This act may be cited as the “Rule
68 of Law Adherence Act.”

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

71 CHAPTER 908

72 FEDERAL IMMIGRATION ENFORCEMENT

73 PART I

74 FINDINGS AND DEFINITIONS

75 908.101 Legislative findings and intent.—The Legislature
76 finds that it is an important state interest that state
77 entities, local governmental entities, and their officials owe
78 an affirmative duty to all citizens and other persons lawfully
79 present in the United States to assist the Federal Government
80 with enforcement of federal immigration laws within this state,
81 including complying with federal immigration detainers. The
82 Legislature further finds that it is an important state interest
83 that, in the interest of public safety and adherence to federal
84 law, this state support federal immigration enforcement efforts
85 and ensure that such efforts are not impeded or thwarted by
86 state or local laws, policies, practices, procedures, or
87 customs. State entities, local governmental entities, and their
88 officials who encourage persons unlawfully present in the United
89 States to locate within this state or who shield such persons
90 from personal responsibility for their unlawful actions breach

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91 this duty and should be held accountable.

92 908.102 Definitions.—As used in this chapter, the term:

93 (1) "Federal immigration agency" means the United States
94 Department of Justice, the United States Department of Homeland
95 Security, or any successor agency and any division of such
96 agency, including the United States Immigration and Customs
97 Enforcement, the United States Customs and Border Protection, or
98 any other federal agency charged with the enforcement of
99 immigration law. The term includes an official or employee of
100 such agency.

101 (2) "Immigration detainer" means a facially sufficient
102 written or electronic request issued by a federal immigration
103 agency using that agency's official form to request that another
104 law enforcement agency detain a person based on an inquiry into
105 the person's immigration status or an alleged violation of a
106 civil immigration law, including detainers issued pursuant to 8
107 U.S.C. ss. 1226 and 1357. For purposes of this subsection, an
108 immigration detainer is deemed facially sufficient if:

109 (a) The federal immigration agency's official form is
110 complete and indicates on its face that the federal immigration
111 agency has reason to believe that the person to be detained may
112 not have been lawfully admitted to the United States or
113 otherwise is not lawfully present in the United States; or

114 (b) The federal immigration agency's official form is
115 incomplete and fails to indicate on its face that the federal
116 immigration agency has reason to believe that the person to be
117 detained may not have been lawfully admitted to the United
118 States or otherwise is not lawfully present in the United
119 States, but the form is supported by an accompanying affidavit

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120 or order that indicates that the federal immigration agency has
121 reason to believe that the person to be detained may not have
122 been lawfully admitted to the United States or otherwise is not
123 lawfully present in the United States.

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

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

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

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

146 (a) Complying with an immigration detainer;

147 (b) Complying with a request from a federal immigration
148 agency to notify the agency before the release of an inmate or

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149 detainee in the custody of the state entity, local governmental
150 entity, or law enforcement agency;

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

153 (d) Initiating an immigration status investigation; or

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

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

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

167 PART II

168 DUTIES

169 908.201 Sanctuary policies prohibited.—A state entity,
170 local governmental entity, or law enforcement agency may not
171 adopt or have in effect a sanctuary policy.

172 908.202 Cooperation with federal immigration authorities.—

173 (1) A state entity, local governmental entity, or law
174 enforcement agency shall fully comply with and, to the full
175 extent permitted by law, support the enforcement of federal
176 immigration law. This subsection is only applicable to an
177 official, representative, agent, or employee of such entity or

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178 agency when he or she is acting within the scope of his or her
179 official duties or within the scope of his or her employment.

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

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

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

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

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

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

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

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

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

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

211 2. The judge:

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

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

216 (b) In a criminal case described in paragraph (a), the
217 judge shall, at the time of pronouncement of a sentence of
218 confinement, issue an order requiring the secure correctional
219 facility in which the defendant is to be confined to reduce the
220 defendant's sentence by a period of not more than 7 days on the
221 facility's determination that the reduction in sentence will
222 facilitate the seamless transfer of the defendant into federal
223 custody. For purposes of this paragraph, the term "secure
224 correctional facility" means a state correctional institution,
225 as defined in s. 944.02, or a county detention facility or a
226 municipal detention facility, as defined in s. 951.23.

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

231 (4) Notwithstanding any other provision of law, if a law
232 enforcement agency has received verification from a federal
233 immigration agency that an alien in the law enforcement agency's
234 custody is unlawfully present in the United States, the law
235 enforcement agency may securely transport such alien to a

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236 federal facility in this state or to another point of transfer
237 to federal custody outside the jurisdiction of the law
238 enforcement agency. A law enforcement agency must obtain
239 judicial authorization before securely transporting such alien
240 to a point of transfer outside of this state.

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

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

256 908.203 Duties related to certain arrested persons.-

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

262 (a) Review any information available from a federal
263 immigration agency, including under the federal Priority
264 Enforcement Program operated by the United States Immigration

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265 and Customs Enforcement or a successor program.

266 (b) If information obtained under paragraph (a) reveals
267 that the person is not a citizen of the United States and is
268 unlawfully present in the United States according to the terms
269 of the federal Immigration and Nationality Act, 8 U.S.C. ss.
270 1101 et seq.:

271 1. Provide notice of that fact to the judge authorized to
272 grant or deny the person's release on bail under chapter 903;
273 and

274 2. Record that fact in the person's case file.

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

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

283 908.204 Duties related to immigration detainer.-

284 (1) A law enforcement agency that has custody of a person
285 subject to an immigration detainer issued by a federal
286 immigration agency shall do all of the following:

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

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

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

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

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

304 908.205 Reimbursement of costs.—

305 (1) A board of county commissioners may adopt an ordinance
306 requiring a person detained pursuant to an immigration detainer
307 to reimburse the county for any expenses incurred in detaining
308 the person pursuant to the immigration detainer. A person
309 detained pursuant to an immigration detainer is not liable under
310 this section if a federal immigration agency determines that the
311 immigration detainer was improperly issued.

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

317 908.206 Duty to report.—

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

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

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

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

342 908.207 Implementation.—This chapter shall be implemented
343 to the fullest extent permitted by federal law regulating
344 immigration and the legislative findings and intent declared in
345 s. 908.101.

346 PART III

347 ENFORCEMENT

348 908.301 Complaints.—The Attorney General shall prescribe
349 and provide through the Department of Legal Affairs' website the
350 format for a person to submit a complaint alleging a violation
351 of this chapter. This section does not prohibit the filing of an

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352 anonymous complaint or a complaint not submitted in the
353 prescribed format. Any person has standing to submit a complaint
354 under this chapter.

355 908.302 Enforcement; penalties.-

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

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

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

372 1. A complaint has been filed;

373 2. The state attorney has determined that the complaint is
374 valid; and

375 3. The state attorney is authorized to file an action to
376 enjoin the violation if the entity or agency does not come into
377 compliance with the requirements of this chapter on or before
378 the 60th day after the notification is provided.

379 (c) No later than the 30th day after the day a state
380 entity, local governmental entity, or law enforcement agency

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381 receives written notification under paragraph (b), the state
382 entity or local governmental entity or agency shall provide the
383 state attorney with a copy of all of the following:

384 1. The entity's or agency's written policies and procedures
385 with respect to federal immigration agency enforcement actions,
386 including the entity's or agency's policies and procedures with
387 respect to immigration detainees.

388 2. Each immigration detainer received by the entity or
389 agency from a federal immigration agency in the current calendar
390 year-to-date and the two prior calendar years.

391 3. Each response sent by the entity or agency for an
392 immigration detainer described in subparagraph 2.

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

400 (4) Upon adjudication by the court or as provided in a
401 consent decree declaring that a state entity, local governmental
402 entity, or law enforcement agency has violated this chapter, the
403 court shall enjoin the unlawful sanctuary policy and order that
404 such entity or agency pay a civil penalty to the state of at
405 least \$1,000 but not more than \$5,000 for each day that the
406 sanctuary policy was in effect commencing on October 1, 2017, or
407 the date the sanctuary policy was first enacted, whichever is
408 later, until the date the injunction was granted. The court
409 shall have continuing jurisdiction over the parties and subject

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410 matter and may enforce its orders with imposition of additional
411 civil penalties as provided for in this section and contempt
412 proceedings as provided by law.

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

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

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

437 908.303 Civil cause of action for personal injury or
438 wrongful death attributed to a sanctuary policy; trial by jury;

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439 required written findings.-

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

448 (a) The existence of a sanctuary policy in violation of s.
449 908.201; and

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

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

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

460 (4) A final judgment entered in favor of a plaintiff in a
461 cause of action brought pursuant to this section must include
462 written findings of fact that describe with specificity the
463 existence and nature of the sanctuary policy in violation of s.
464 908.201 and that identify each sanctuary policymaker who voted
465 for, allowed to be implemented, or voted against, the repeal or
466 prohibition of the sanctuary policy. The court shall provide a
467 copy of the final judgment containing the written findings

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468 required by this subsection to the Governor within 30 days after
469 the date of rendition. A sanctuary policymaker identified in a
470 final judgment may be suspended or removed from office pursuant
471 to general law and s. 7, Art. IV of the State Constitution.

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

476 908.304 Ineligibility for state grant funding.-

477 (1) Notwithstanding any other provision of law, a state
478 entity, local governmental entity, or law enforcement agency is
479 ineligible to receive funding from nonfederal grant programs
480 administered by state agencies that receive funding from the
481 General Appropriations Act for a period of 5 years from the date
482 of adjudication that such state entity, local governmental
483 entity, or law enforcement agency had in effect a sanctuary
484 policy in violation of this chapter.

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

496 (3) This section does not apply to:

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

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

505 PART IV

506 MISCELLANEOUS

507 908.401 Education records.—This chapter does not apply to
508 the release of information contained in education records of an
509 educational agency or institution, except in conformity with the
510 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
511 1232g.

512 908.402 Discrimination prohibited.—A state entity, local
513 governmental entity, or law enforcement agency, or a person
514 employed by or otherwise under the direction or control of such
515 an entity, may not base its actions under this chapter on the
516 gender, race, religion, national origin, or physical disability
517 of a person except to the extent permitted by the United States
518 Constitution or the State Constitution.

519 Section 3. A sanctuary policy, as defined in s. 908.102,
520 Florida Statutes, as created by this act, which is in effect on
521 July 1, 2017, must be repealed within 90 days after that date.

522 Section 4. Except for sections 908.302 and 908.303, Florida
523 Statutes, as created by this act, which shall take effect
524 October 1, 2017, this act shall take effect July 1, 2017.