

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; prohibiting
10 restrictions by such entities and agencies on taking
11 certain actions with respect to information regarding
12 a person's immigration status; providing requirements
13 concerning certain criminal defendants subject to
14 immigration detainers or otherwise subject to transfer
15 to federal custody; authorizing a law enforcement
16 agency to transport an unauthorized alien under
17 certain circumstances; providing an exception to
18 reporting requirements for crime victims or witnesses;
19 requiring recordkeeping relating to crime victim and
20 witness cooperation in certain investigations;
21 specifying duties concerning certain arrested persons;
22 specifying duties concerning immigration detainers;
23 authorizing a board of county commissioners to adopt
24 an ordinance to recover costs for complying with an
25 immigration detainer; authorizing local governmental
26 entities and law enforcement agencies to petition the
27 Federal Government for reimbursement of certain costs;
28 requiring report of violations; providing penalties
29 for failure to report a violation; providing whistle-

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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; requiring a court to provide a copy of the final judgment to the Governor within 30 days after rendition; providing for suspension or removal from office of a sanctuary policymaker; providing for ineligibility for funding from nonfederal grant programs for a specified duration; providing for applicability to certain education records; prohibiting discrimination on specified grounds; 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 of Law Adherence Act.”

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

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CHAPTER 908

FEDERAL IMMIGRATION ENFORCEMENTPART IFINDINGS 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.

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88 (2) "Immigration detainer" means a facially sufficient
89 written or electronic request issued by a federal immigration
90 agency using that agency's official form to request that another
91 law enforcement agency detain a person based on probable cause
92 to believe that the person to be detained is a removable alien
93 under federal immigration law, including detainers issued
94 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this
95 subsection, an immigration detainer is deemed facially
96 sufficient if:

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

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

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

112 (4) "Law enforcement agency" means an agency in this state
113 charged with enforcement of state, county, municipal, or federal
114 laws or with managing custody of detained persons in the state
115 and includes municipal police departments, sheriff's offices,
116 state police departments, state university and college police

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117 departments, and the Department of Corrections. The term
118 includes an official or employee of such agency.

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

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

132 (a) Complying with an immigration detainer;

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

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

139 (d) Initiating an immigration status investigation; or

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

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

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146 sanctuary policy.

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

153 PART II

154 DUTIES

155 908.201 Sanctuary policies prohibited.—A state entity, law
156 enforcement agency, or local governmental entity may not adopt
157 or have in effect a sanctuary policy.

158 908.202 Cooperation with federal immigration authorities.—

159 (1) A state entity, local governmental entity, or law
160 enforcement agency shall fully comply with and, to the fullest
161 extent authorized by law, support the enforcement of federal
162 immigration law. This subsection is only applicable to an
163 official, representative, agent, or employee of such entity or
164 agency when he or she is acting within the scope of his or her
165 official duties or within the scope of his or her employment.

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

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

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

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

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

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

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

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

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

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

197 2. The judge:

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

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

202 (b) In a criminal case described by paragraph (a), the
203 judge shall, at the time of pronouncement of a sentence of

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204 confinement, issue an order requiring the secure correctional
205 facility in which the defendant is to be confined to reduce the
206 defendant's sentence by a period of not more than 7 days on the
207 facility's determination that the reduction in sentence will
208 facilitate the seamless transfer of the defendant into federal
209 custody. For purposes of this paragraph, the term "secure
210 correctional facility" means a state correctional institution,
211 as defined in s. 944.02, or a county detention facility or a
212 municipal detention facility, as defined in s. 951.23.

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

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

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

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233 prosecution of such offense.

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

242 908.203 Duties related to certain arrested persons.—

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

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

250 (b) If information obtained under paragraph (a) reveals
251 that the person is not a citizen of the United States and is
252 unlawfully present in the United States according to the terms
253 of the federal Immigration and Nationality Act, 8 U.S.C. ss.
254 1101 et seq., the law enforcement agency shall:

255 1. Provide immediate notice of the person's arrest and
256 charges to a federal immigration agency.

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

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

260 (2) A law enforcement agency is not required to perform a
261 duty imposed by subsection (1) with respect to a person who is

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262 transferred to the custody of the agency by another law
263 enforcement agency if the transferring agency performed that
264 duty before transferring custody of the person.

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

268 908.204 Duties related to immigration detainers.-

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

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

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

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

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

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

289 908.205 Reimbursement of costs.-

290 (1) A board of county commissioners may adopt an ordinance

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291 requiring a person detained pursuant to an immigration detainer
292 to reimburse the county for any expenses incurred in detaining
293 the person pursuant to the immigration detainer. A person
294 detained pursuant to an immigration detainer is not liable under
295 this section if a federal immigration agency determines that the
296 immigration detainer was improperly issued.

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

302 908.206 Duty to report.—

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

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

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

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

327 908.207 Implementation.—This chapter shall be implemented
328 to the fullest extent authorized by federal law regulating
329 immigration and the legislative findings and intent declared in
330 s. 908.101.

331 PART III

332 ENFORCEMENT

333 908.301 Complaints.—The Attorney General shall prescribe
334 and provide through the Department of Legal Affairs' website the
335 format for a person to submit a complaint alleging a violation
336 of this chapter. This section does not prohibit the filing of an
337 anonymous complaint or a complaint not submitted in the
338 prescribed format. Any person has standing to submit a complaint
339 under this chapter.

340 908.302 Enforcement; penalties.—

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

348 (2) (a) A state entity, local governmental entity, or law

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349 enforcement agency for which the state attorney has received a
350 complaint shall comply with a document request from the state
351 attorney related to the complaint.

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

357 1. The complaint has been filed.

358 2. The state attorney has determined that the complaint is
359 valid.

360 3. The state attorney is authorized to file an action to
361 enjoin the violation if the entity does not come into compliance
362 with the requirements of this chapter on or before the 60th day
363 after the notification is provided.

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

368 1. The entity's written policies and procedures with
369 respect to federal immigration agency enforcement actions,
370 including the entity's policies and procedures with respect to
371 immigration detainers.

372 2. Each immigration detainer received by the entity from a
373 federal immigration agency in the current calendar year-to-date
374 and the two prior calendar years.

375 3. Each response sent by the entity for an immigration
376 detainer described by subparagraph 2.

377 (3) The Attorney General, the state attorney who conducted

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378 the investigation, or a state attorney ordered by the Governor
379 pursuant to s. 27.14 may institute proceedings in circuit court
380 to enjoin a state entity, local governmental entity, or law
381 enforcement agency found to be in violation of this chapter. The
382 court shall expedite an action under this section, including
383 setting a hearing at the earliest practicable date.

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

397 (5) An order approving a consent decree or granting an
398 injunction or civil penalty pursuant to subsection (4) must
399 include written findings of fact that describe with specificity
400 the existence and nature of the sanctuary policy in violation of
401 s. 908.201 and that identify each sanctuary policymaker who
402 voted for, allowed to be implemented, or voted against repeal or
403 prohibition of the sanctuary policy. The court shall provide a
404 copy of the consent decree or order granting an injunction or
405 civil penalty which contains the written findings required by
406 this subsection to the Governor within 30 days after the date of

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407 rendition. A sanctuary policymaker identified in an order
408 approving a consent decree or granting an injunction or civil
409 penalty may be suspended or removed from office pursuant to
410 general law and s. 7, Art. IV of the State Constitution.

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

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

421 908.303 Civil cause of action for personal injury or
422 wrongful death attributed to a sanctuary policy; trial by jury;
423 required written findings.-

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

432 (a) The existence of a sanctuary policy in violation of s.
433 908.201; and

434 (b)1. A failure to comply with a provision of s. 908.202
435 resulting in such alien's having access to the person injured or

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436 killed when the tortious acts or omissions occurred; or

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

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

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

447 (4) A final judgment entered in favor of a plaintiff in a
448 cause of action brought pursuant to this section must include
449 written findings of fact that describe with specificity the
450 existence and nature of the sanctuary policy in violation of s.
451 908.201 and that identify each sanctuary policymaker who voted
452 for, allowed to be implemented, or voted against repeal or
453 prohibition of the sanctuary policy. The court shall provide a
454 copy of the final judgment containing the written findings
455 required by this subsection to the Governor within 30 days after
456 the date of rendition. A sanctuary policymaker identified in a
457 final judgment may be suspended or removed from office pursuant
458 to general law and s. 7, Art. IV of the State Constitution.

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

463 908.304 Ineligibility for state grant funding.-

464 (1) Notwithstanding any other provision of law, a state

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465 entity, local governmental entity, or law enforcement agency
466 shall be ineligible to receive funding from nonfederal grant
467 programs administered by state agencies that receive funding
468 from the General Appropriations Act for a period of 5 years from
469 the date of adjudication that such state entity, local
470 governmental entity, or law enforcement agency had in effect a
471 sanctuary policy in violation of this chapter.

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

483 (3) This subsection does not apply to:

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

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

492 PART IV

493 MISCELLANEOUS

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494 908.401 Education records.—This chapter does not apply to
495 the release of information contained in education records of an
496 educational agency or institution, except in conformity with the
497 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
498 1232g.

499 908.402 Discrimination prohibited.—A state entity, a local
500 governmental entity, or a law enforcement agency, or a person
501 employed by or otherwise under the direction or control of such
502 an entity, may not base any actions under this chapter on the
503 gender, race, religion, national origin, or physical disability
504 of a person except to the extent authorized by the United States
505 Constitution or the State Constitution.

506 Section 3. A sanctuary policy, as defined in s. 908.102,
507 Florida Statutes, as created by this act, that is in effect on
508 the effective date of this act must be repealed within 90 days
509 after that date.

510 Section 4. Except for sections 908.302 and 908.303, Florida
511 Statutes, as created by this act, which shall take effect
512 October 1, 2018, this act shall take effect July 1, 2018.