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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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:

908.101 Legislative findings and intent.—The Legislature
finds that it is an important state interest to cooperate and
assist the federal government in the enforcement of federal



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12 immigration laws within this state.

13 908.102 Definitions.—As used in this chapter, the term:

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

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

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

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



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

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

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

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

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

67 (a) Complying with an immigration detainer;

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



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70 detainee in the custody of the state entity, local governmental
71 entity, or law enforcement agency;

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

74 (d) Initiating an immigration status investigation; or

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

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

83 908.201 Sanctuary policies prohibited.—A state entity, law
84 enforcement agency, or local governmental entity may not adopt
85 or have in effect a sanctuary policy.

86 908.202 Cooperation with federal immigration authorities.—

87 (1) A state entity, local governmental entity, or law
88 enforcement agency shall fully comply with and, to the full
89 extent permitted by law, support the enforcement of federal
90 immigration law. This subsection applies to an official,
91 representative, agent, or employee of the entity or agency only
92 when he or she is acting within the scope of his or her official
93 duties or within the scope of his or her employment.

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



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99 respect to information regarding a person's immigration status:

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

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

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

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

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

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

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

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

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

125 2. The judge:

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



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

130 (b) In an applicable criminal case, at the time of
131 pronouncement of a sentence of confinement, the judge shall
132 issue an order requiring the secure correctional facility in
133 which the defendant is to be confined to reduce the defendant's
134 sentence by a period of not more than 7 days on the facility's
135 determination that the reduction in sentence will facilitate the
136 seamless transfer of the defendant into federal custody. For
137 purposes of this paragraph, the term "secure correctional
138 facility" means a state correctional institution as defined in
139 s. 944.02 or a county detention facility or a municipal
140 detention facility as defined in s. 951.23.

141 (c) If the information specified in sub-subparagraph
142 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
143 the sentence is pronounced in the case, the judge shall issue
144 the order described by paragraph (b) as soon as the information
145 becomes available.

146 (4) When a law enforcement agency receives verification
147 from a federal immigration agency that an alien in the law
148 enforcement agency's custody is unlawfully present in the United
149 States, the agency may securely transport the alien to a federal
150 facility in this state or to another point of transfer to
151 federal custody outside the jurisdiction of the law enforcement
152 agency. However, the law enforcement agency may transport an
153 alien who is confined in a secure correctional facility only
154 upon authorization by a court order unless the transportation
155 will occur within the 7 day period under subsection (3). A law
156 enforcement agency shall obtain judicial authorization before



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157 securely transporting an alien to a point of transfer outside of
158 this state.

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

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

174 908.203 Duties related to certain arrested persons.-

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

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

182 (b) If information obtained under paragraph (a) reveals
183 that the person is not a citizen of the United States and is
184 unlawfully present in the United States according to the terms
185 of the federal Immigration and Nationality Act, 8 U.S.C. ss.



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186 1101 et seq., must:

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

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

191 3. Record the person's arrest and charges in the person's
192 case file.

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

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

201 908.204 Duties related to immigration detainees.-

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

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

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

210 (c) Upon determining that the immigration detainer is in
211 accordance with subsection (2), comply with the requests made in
212 the immigration detainer.

213 (2) A law enforcement agency is not required to perform a
214 duty imposed by paragraph (1)(a) or paragraph (1)(b) with



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215 respect to a person who is transferred to the custody of the
216 agency by another law enforcement agency if the transferring
217 agency performed that duty before the transfer.

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

222 908.205 Reimbursement of costs.—

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

230 (2) A local governmental entity or law enforcement agency
231 shall enter into an agreement for payment for detaining aliens
232 and complying with federal requests when the costs are incurred
233 in support of the enforcement of federal immigration law.
234 Compliant agreements include any basic ordering agreements
235 between the U.S. Immigration and Customs Enforcement and state
236 and local law enforcement agencies in effect on July 1, 2019, or
237 similar agreements and other agreements authorized by federal
238 law. If the payments are not made within 90 days from the
239 submission of an invoice, the local government or law
240 enforcement agency may suspend its cooperation pending payment
241 but shall immediately resume the cooperation upon payment by the
242 federal government of the amounts.

243 908.302 Enforcement.—



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244 (1) Upon adjudication by the court or as provided in a
245 consent decree declaring that a state entity, local governmental
246 entity, or law enforcement agency has violated this chapter, the
247 court shall enjoin the unlawful sanctuary policy and may award
248 reasonable costs and attorney fees to the plaintiff. The court
249 has continuing jurisdiction over the parties and subject matter
250 and may enforce its orders with the initiation of contempt
251 proceedings as provided by law.

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

256 908.401 Education records.—This chapter does not apply to
257 the release of information contained in education records of an
258 educational agency or institution, except in conformity with the
259 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
260 1232g.

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

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

272 Section 4. Section 908.302, Florida Statutes, as created by



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273 this act, shall take effect October 1, 2019, and, except as
274 otherwise expressly provided in this act, this act shall take
275 effect July 1, 2019.

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

277 And the title is amended as follows:

278 Delete everything before the enacting clause
279 and insert:

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



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302 immigration detainers; requiring local government
303 entities and law enforcement agencies to enter
304 agreements for payments for complying with immigration
305 detainers; providing for injunctive relief and awards
306 of costs and attorney fees to prevailing plaintiffs;
307 providing for applicability to certain education
308 records; prohibiting discrimination on specified
309 grounds; providing for implementation; requiring
310 repeal of existing sanctuary policies within a
311 specified period; providing effective dates.
312