

OPPOSE HOUSE BILL 9

Penalizing State and Local Government Entities, Universities, and Local Law Enforcement for Protecting Immigrant Communities and Requiring Local Law Enforcement to Enforce Federal Immigration Detainer Requests



The American Civil Liberties Union of Florida opposes HB 9, entitled the “Rule of Law Adherence Act,” because it raises several constitutional concerns and tramples on the civil rights and liberties of actual or perceived immigrants.

House Bill 9 would have a devastating impact on Florida’s communities

HB 9 broadly bans all sanctuary policies and procedures and requires every Florida county and municipality to expend maximum local resources to enforce federal immigration law. Moreover, it does not provide any funding or reimbursement for its costly mandate.

Specifically, this bill provides that no state entity, law enforcement agency, local government entity, state university, or representative thereof may adopt or have in effect a “sanctuary policy.” Sanctuary policy is defined broadly and vaguely in the bill to include “a law, policy, practice, procedure, or custom adopted or permitted by a state entity, local governmental entity, or law enforcement agency” which limits or prevents:

- Compliance with an immigration detainer request
- Compliance with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee
- Federal immigration agency access to an inmate for interview
- Investigation of the inmate’s immigration status, and
- Providing a federal immigration agency with an inmate’s incarceration status or release date.

Keeping Florida's Communities Safe

If HB 9 becomes law, it would expose every government entity in Florida to potential liability for constitutional violations, divert maximum local law enforcement resources from safeguarding our communities, and cost the state millions of dollars at taxpayer expense, without any requirement for federal reimbursement of costs.

Additionally, this bill unconstitutionally requires a state entity, local governmental entity, or law enforcement agency (and any employee thereof acting in the scope of his or her employment), to “fully comply” with federal immigration detainer requests, as broadly defined in the bill to include a facially deficient request accompanied by an affidavit. Thus requiring local law enforcement to detain individuals against their will without a judicial determination of probable cause that the individual has committed a crime.

In effect, law enforcement will be conscripted to prioritize immigration enforcement over any local needs to address crime or keep communities safe and will be forced to expend maximum resources and shoulder the economic costs, as well as the safety costs associated with decreased resources and attention devoted to local needs. Moreover, local law enforcement will be exposed to liability in federal court for constitutional violations.

HB 9 would force state entities (including state universities and colleges), local governments, law enforcement agencies (including county, municipal, and university and college police departments), and employees thereof, into an impossible situation where they must choose between: (a) enforcing ICE detainer requests and potentially being held liable for damages for constitutional violations, or (b) not enforcing ICE detainer requests, and facing a range of harsh financial penalties and sanctions, including personal injury damages.

For all of these reasons, we ask you to oppose HB 9 and stand with our immigrant communities.

Penalties in the bill for failure to fully comply are severe and unprecedented:

- State entities (including universities), local government entities, law enforcement agencies, and representative employees or officers thereof, may be fined up to **\$5,000 per day** for each day that the sanctuary policy or practice is in effect after October 1, 2018.
- A state or local official who has voted in favor of a sanctuary policy or practice, or allowed such practice to be implemented, may be suspended or **removed from office**.
- Any official or employee of a state or local entity or law enforcement agency who intentionally fails to report a violation of the bill may be suspended or **removed from office or employment**.
- It creates a civil **cause of action** for personal injury damages against a state or local government entity, or law enforcement agency, for failure to fully comply with the bill.
- It provides that local entities in violation of the bill shall be ineligible for **state grant funding for a period of five years** from the violation.