

115TH CONGRESS  
1ST SESSION

# H. R. 3003

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IN THE SENATE OF THE UNITED STATES

JULY 10, 2017

Received

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## AN ACT

To amend the Immigration and Nationality Act to modify provisions relating to assistance by States, and political subdivision of States, in the enforcement of Federal immigration laws, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “No Sanctuary for  
3 Criminals Act”.

4 **SEC. 2. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**  
5 **IMMIGRATION LAW.**

6       (a) IN GENERAL.—Section 642 of the Illegal Immi-  
7 gration Reform and Immigrant Responsibility Act of 1996  
8 (8 U.S.C. 1373) is amended—

9           (1) by striking subsection (a) and inserting the  
10 following:

11       “(a) IN GENERAL.—Notwithstanding any other pro-  
12 vision of Federal, State, or local law, no Federal, State,  
13 or local government entity, and no individual, may prohibit  
14 or in any way restrict, a Federal, State, or local govern-  
15 ment entity, official, or other personnel from complying  
16 with the immigration laws (as defined in section  
17 101(a)(17) of the Immigration and Nationality Act (8  
18 U.S.C. 1101(a)(17))), or from assisting or cooperating  
19 with Federal law enforcement entities, officials, or other  
20 personnel regarding the enforcement of these laws.”;

21           (2) by striking subsection (b) and inserting the  
22 following:

23       “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-  
24 standing any other provision of Federal, State, or local  
25 law, no Federal, State, or local government entity, and no  
26 individual, may prohibit, or in any way restrict, a Federal,

1 State, or local government entity, official, or other per-  
2 sonnel from undertaking any of the following law enforce-  
3 ment activities as they relate to information regarding the  
4 citizenship or immigration status, lawful or unlawful, the  
5 inadmissibility or deportability, or the custody status, of  
6 any individual:

7           “(1) Making inquiries to any individual in order  
8           to obtain such information regarding such individual  
9           or any other individuals.

10           “(2) Notifying the Federal Government regard-  
11           ing the presence of individuals who are encountered  
12           by law enforcement officials or other personnel of a  
13           State or political subdivision of a State.

14           “(3) Complying with requests for such informa-  
15           tion from Federal law enforcement entities, officials,  
16           or other personnel.”;

17           (3) in subsection (c), by striking “Immigration  
18           and Naturalization Service” and inserting “Depart-  
19           ment of Homeland Security”; and

20           (4) by adding at the end the following:

21           “(d) COMPLIANCE.—

22           “(1) ELIGIBILITY FOR CERTAIN GRANT PRO-  
23           GRAMS.—A State, or a political subdivision of a  
24           State, that is found not to be in compliance with  
25           subsection (a) or (b) shall not be eligible to receive—

“(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), the ‘Cops on the Beat’ program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.); or

“(B) any other grant administered by the Department of Justice or the Department of Homeland Security that is substantially related to law enforcement, terrorism, national security, immigration, or naturalization.

“(2) TRANSFER OF CUSTODY OF ALIENS PENDING REMOVAL PROCEEDINGS.—The Secretary, at the Secretary’s discretion, may decline to transfer an alien in the custody of the Department of Homeland Security to a State or political subdivision of a State found not to be in compliance with subsection (a) or (b), regardless of whether the State or political subdivision of the State has issued a writ or warrant.

1           “(3) TRANSFER OF CUSTODY OF CERTAIN  
2       ALIENS PROHIBITED.—The Secretary shall not  
3       transfer an alien with a final order of removal pur-  
4       suant to paragraph (1)(A) or (5) of section 241(a)  
5       of the Immigration and Nationality Act (8 U.S.C.  
6       1231(a)) to a State or a political subdivision of a  
7       State that is found not to be in compliance with sub-  
8       section (a) or (b).

9           “(4) ANNUAL DETERMINATION.—The Secretary  
10      shall determine for each calendar year which States  
11      or political subdivision of States are not in compli-  
12      ance with subsection (a) or (b) and shall report such  
13      determinations to Congress by March 1 of each suc-  
14      ceeding calendar year.

15          “(5) REPORTS.—The Secretary of Homeland  
16      Security shall issue a report concerning the compli-  
17      ance with subsections (a) and (b) of any particular  
18      State or political subdivision of a State at the re-  
19      quest of the House or the Senate Judiciary Com-  
20      mittee. Any jurisdiction that is found not to be in  
21      compliance shall be ineligible to receive Federal fi-  
22      nancial assistance as provided in paragraph (1) for  
23      a minimum period of 1 year, and shall only become  
24      eligible again after the Secretary of Homeland Secu-

1        rity certifies that the jurisdiction has come into com-  
2        pliance.

3            “(6) REALLOCATION.—Any funds that are not  
4        allocated to a State or to a political subdivision of  
5        a State due to the failure of the State or of the po-  
6        litical subdivision of the State to comply with sub-  
7        section (a) or (b) shall be reallocated to States or to  
8        political subdivisions of States that comply with both  
9        such subsections.

10        “(e) CONSTRUCTION.—Nothing in this section shall  
11        require law enforcement officials from States, or from po-  
12        litical subdivisions of States, to report or arrest victims  
13        or witnesses of a criminal offense.”.

14        (b) EFFECTIVE DATE.—The amendments made by  
15        this section shall take effect on the date of the enactment  
16        of this Act, except that subsection (d) of section 642 of  
17        the Illegal Immigration Reform and Immigrant Responsi-  
18        bility Act of 1996 (8 U.S.C. 1373), as added by this sec-  
19        tion, shall apply only to prohibited acts committed on or  
20        after the date of the enactment of this Act.

21        **SEC. 3. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

22        (a) IN GENERAL.—Section 287(d) of the Immigra-  
23        tion and Nationality Act (8 U.S.C. 1357(d)) is amended  
24        to read as follows:

1       “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE  
2   ALIENS.—

3               “(1) IN GENERAL.—In the case of an individual  
4       who is arrested by any Federal, State, or local law  
5       enforcement official or other personnel for the al-  
6       leged violation of any criminal or motor vehicle law,  
7       the Secretary may issue a detainer regarding the in-  
8       dividual to any Federal, State, or local law enforce-  
9       ment entity, official, or other personnel if the Sec-  
10      retary has probable cause to believe that the indi-  
11      vidual is an inadmissible or deportable alien.

12              “(2) PROBABLE CAUSE.—Probable cause is  
13      deemed to be established if—

14              “(A) the individual who is the subject of  
15              the detainer matches, pursuant to biometric  
16              confirmation or other Federal database records,  
17              the identity of an alien who the Secretary has  
18              reasonable grounds to believe to be inadmissible  
19              or deportable;

20              “(B) the individual who is the subject of  
21              the detainer is the subject of ongoing removal  
22              proceedings, including matters where a charg-  
23              ing document has already been served;

24              “(C) the individual who is the subject of  
25              the detainer has previously been ordered re-

1 moved from the United States and such an  
2 order is administratively final;

3 “(D) the individual who is the subject of  
4 the detainer has made voluntary statements or  
5 provided reliable evidence that indicate that  
6 they are an inadmissible or deportable alien; or

7 “(E) the Secretary otherwise has reason-  
8 able grounds to believe that the individual who  
9 is the subject of the detainer is an inadmissible  
10 or deportable alien.

11 “(3) TRANSFER OF CUSTODY.—If the Federal,  
12 State, or local law enforcement entity, official, or  
13 other personnel to whom a detainer is issued com-  
14 plies with the detainer and detains for purposes of  
15 transfer of custody to the Department of Homeland  
16 Security the individual who is the subject of the de-  
17 tainer, the Department may take custody of the in-  
18 dividual within 48 hours (excluding weekends and  
19 holidays), but in no instance more than 96 hours,  
20 following the date that the individual is otherwise to  
21 be released from the custody of the relevant Federal,  
22 State, or local law enforcement entity.”.

23 (b) IMMUNITY.—

24 (1) IN GENERAL.—A State or a political sub-  
25 division of a State (and the officials and personnel



1 of the State or subdivision acting in their official ca-  
2 pacities), and a nongovernmental entity (and its per-  
3 sonnel) contracted by the State or political subdivi-  
4 sion for the purpose of providing detention, acting in  
5 compliance with a Department of Homeland Secu-  
6 rity detainer issued pursuant to this section who  
7 temporarily holds an alien in its custody pursuant to  
8 the terms of a detainer so that the alien may be  
9 taken into the custody of the Department of Home-  
10 land Security, shall be considered to be acting under  
11 color of Federal authority for purposes of deter-  
12 mining their liability and shall be held harmless for  
13 their compliance with the detainer in any suit seek-  
14 ing any punitive, compensatory, or other monetary  
15 damages.

16 (2) FEDERAL GOVERNMENT AS DEFENDANT.—  
17 In any civil action arising out of the compliance with  
18 a Department of Homeland Security detainer by a  
19 State or a political subdivision of a State (and the  
20 officials and personnel of the State or subdivision  
21 acting in their official capacities), or a nongovern-  
22 mental entity (and its personnel) contracted by the  
23 State or political subdivision for the purpose of pro-  
24 viding detention, the United States Government  
25 shall be the proper party named as the defendant in

1 the suit in regard to the detention resulting from  
2 compliance with the detainer.

3 (3) BAD FAITH EXCEPTION.—Paragraphs (1)  
4 and (2) shall not apply to any mistreatment of an  
5 individual by a State or a political subdivision of a  
6 State (and the officials and personnel of the State  
7 or subdivision acting in their official capacities), or  
8 a nongovernmental entity (and its personnel) con-  
9 tracted by the State or political subdivision for the  
10 purpose of providing detention.

11 (c) PRIVATE RIGHT OF ACTION.—

12 (1) CAUSE OF ACTION.—Any individual, or a  
13 spouse, parent, or child of that individual (if the in-  
14 dividual is deceased), who is the victim of a murder,  
15 rape, or any felony, as defined by the State, for  
16 which an alien (as defined in section 101(a)(3) of  
17 the Immigration and Nationality Act (8 U.S.C.  
18 1101(a)(3))) has been convicted and sentenced to a  
19 term of imprisonment of at least 1 year, may bring  
20 an action against a State or political subdivision of  
21 a State in the appropriate Federal or State court if  
22 the State or political subdivision released the alien  
23 from custody prior to the commission of such crime  
24 as a consequence of the State or political subdivi-  
25 sion's declining to honor a detainer issued pursuant

1 to section 287(d)(1) of the Immigration and Nation-  
2 ality Act (8 U.S.C. 1357(d)(1)).

3 (2) LIMITATION ON BRINGING ACTION.—An ac-  
4 tion brought under this subsection may not be  
5 brought later than 10 years following the occurrence  
6 of the crime, or death of a person as a result of such  
7 crime, whichever occurs later.

8 (3) ATTORNEY’S FEE AND OTHER COSTS.—In  
9 any action or proceeding under this subsection the  
10 court shall allow a prevailing plaintiff a reasonable  
11 attorneys’ fee as part of the costs, and include ex-  
12 pert fees as part of the attorneys’ fee.

13 **SEC. 4. SARAH AND GRANT’S LAW.**

14 (a) DETENTION OF ALIENS DURING REMOVAL PRO-  
15 CEEDINGS.—

16 (1) CLERICAL AMENDMENTS.—(A) Section 236  
17 of the Immigration and Nationality Act (8 U.S.C.  
18 1226) is amended by striking “Attorney General”  
19 each place it appears (except in the second place  
20 that term appears in section 236(a)) and inserting  
21 “Secretary of Homeland Security”.

22 (B) Section 236(a) of such Act (8 U.S.C.  
23 1226(a)) is amended by inserting “the Secretary of  
24 Homeland Security or” before “the Attorney Gen-  
25 eral—”.

1           (C) Section 236(e) of such Act (8 U.S.C.  
2     1226(e)) is amended by striking “Attorney Gen-  
3     eral’s” and inserting “Secretary of Homeland Secu-  
4     rity’s”.

5           (2) LENGTH OF DETENTION.—Section 236 of  
6     such Act (8 U.S.C. 1226) is amended by adding at  
7     the end the following:

8     “(f) LENGTH OF DETENTION.—

9           “(1) IN GENERAL.—Notwithstanding any other  
10    provision of this section, an alien may be detained,  
11    and for an alien described in subsection (c) shall be  
12    detained, under this section without time limitation,  
13    except as provided in subsection (h), during the  
14    pendency of removal proceedings.

15          “(2) CONSTRUCTION.—The length of detention  
16    under this section shall not affect detention under  
17    section 241.”.

18          (3) DETENTION OF CRIMINAL ALIENS.—Section  
19    236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is  
20    amended—

21           (A) in subparagraph (C), by striking “or”  
22           at the end;

23           (B) by inserting after subparagraph (D)  
24           the following:

1           “(E) is unlawfully present in the United  
2           States and has been convicted for driving while  
3           intoxicated (including a conviction for driving  
4           while under the influence or impaired by alcohol  
5           or drugs) without regard to whether the convic-  
6           tion is classified as a misdemeanor or felony  
7           under State law, or

8           “(F)(i)(I) is inadmissible under section  
9           212(a)(6)(i),

10           “(II) is deportable by reason of a visa rev-  
11           ocation under section 221(i), or

12           “(III) is deportable under section  
13           237(a)(1)(C)(i), and

14           “(ii) has been arrested or charged with a  
15           particularly serious crime or a crime resulting  
16           in the death or serious bodily injury (as defined  
17           in section 1365(h)(3) of title 18, United States  
18           Code) of another person;”; and

19           (C) by amending the matter following sub-  
20           paragraph (F) (as added by subparagraph (B)  
21           of this paragraph) to read as follows:

22           “any time after the alien is released, without regard  
23           to whether an alien is released related to any activ-  
24           ity, offense, or conviction described in this para-  
25           graph; to whether the alien is released on parole, su-

1        supervised release, or probation; or to whether the  
2        alien may be arrested or imprisoned again for the  
3        same offense. If the activity described in this para-  
4        graph does not result in the alien being taken into  
5        custody by any person other than the Secretary,  
6        then when the alien is brought to the attention of  
7        the Secretary or when the Secretary determines it is  
8        practical to take such alien into custody, the Sec-  
9        retary shall take such alien into custody.”.

10            (4) ADMINISTRATIVE REVIEW.—Section 236 of  
11        the Immigration and Nationality Act (8 U.S.C.  
12        1226), as amended by paragraph (2), is further  
13        amended by adding at the end the following:

14        “(g) ADMINISTRATIVE REVIEW.—The Attorney Gen-  
15        eral’s review of the Secretary’s custody determinations  
16        under subsection (a) for the following classes of aliens  
17        shall be limited to whether the alien may be detained, re-  
18        leased on bond (of at least \$1,500 with security approved  
19        by the Secretary), or released with no bond:

20            “(1) Aliens in exclusion proceedings.

21            “(2) Aliens described in section 212(a)(3) or  
22        237(a)(4).

23            “(3) Aliens described in subsection (c).

24        “(h) RELEASE ON BOND.—

1           “(1) IN GENERAL.—An alien detained under  
2       subsection (a) may seek release on bond. No bond  
3       may be granted except to an alien who establishes  
4       by clear and convincing evidence that the alien is not  
5       a flight risk or a danger to another person or the  
6       community.

7           “(2) CERTAIN ALIENS INELIGIBLE.—No alien  
8       detained under subsection (c) may seek release on  
9       bond.”.

10          (5) CLERICAL AMENDMENTS.—(A) Section  
11       236(a)(2)(B) of the Immigration and Nationality  
12       Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-  
13       ing “conditional parole” and inserting “recog-  
14       nizance”.

15          (B) Section 236(b) of such Act (8 U.S.C.  
16       1226(b)) is amended by striking “parole” and in-  
17       serting “recognizance”.

18          (b) EFFECTIVE DATE.—The amendments made by  
19       subsection (a) shall take effect on the date of the enact-  
20       ment of this Act and shall apply to any alien in detention  
21       under the provisions of section 236 of the Immigration  
22       and Nationality Act (8 U.S.C. 1226), as so amended, or

- 1 otherwise subject to the provisions of such section, on or
- 2 after such date.

Passed the House of Representatives June 29, 2017.

Attest:

KAREN L. HAAS,  
*Clerk.*