

116TH CONGRESS
1ST SESSION

H. R. 1928

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to impose penalties for State noncompliance with enforcement of immigration law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2019

Mr. RESCENTIALER (for himself, Mr. GAETZ, Mr. STEUBE, and Mr. CLINE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to impose penalties for State noncompliance with enforcement of immigration law, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Sanctuary for
5 Criminals Act of 2019”.

1 **SEC. 2. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**
2 **IMMIGRATION LAW.**

3 (a) IN GENERAL.—Section 642 of the Illegal Immi-
4 gration Reform and Immigrant Responsibility Act of 1996
5 (8 U.S.C. 1373) is amended—

6 (1) by striking subsection (a) and inserting the
7 following:

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

18 (2) by striking subsection (b) and inserting the
19 following:

20 “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-
21 standing any other provision of Federal, State, or local
22 law, no Federal, State, or local government entity, and no
23 individual, may prohibit, or in any way restrict, a Federal,
24 State, or local government entity, official, or other per-
25 sonnel from undertaking any of the following law enforce-
26 ment activities as they relate to information regarding the

1 citizenship or immigration status, lawful or unlawful, the
2 inadmissibility or deportability, or the custody status, of
3 any individual:

4 “(1) Making inquiries to any individual in order
5 to obtain such information regarding such individual
6 or any other individuals.

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

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

14 (3) in subsection (c), by striking “Immigration
15 and Naturalization Service” and inserting “Depart-
16 ment of Homeland Security”; and

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

18 “(d) COMPLIANCE.—

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

23 “(A) any of the funds that would otherwise
24 be allocated to the State or political subdivision
25 under section 241(i) of the Immigration and

1 Nationality Act (8 U.S.C. 1231(i)), the ‘Cops
2 on the Beat’ program under part Q of title I of
3 the Omnibus Crime Control and Safe Streets
4 Act of 1968 (34 U.S.C. 10381 et seq.), or the
5 Edward Byrne Memorial Justice Assistance
6 Grant Program under subpart 1 of part E of
7 title I of the Omnibus Crime Control and Safe
8 Streets Act of 1968 (34 U.S.C. 10151 et seq.);
9 or

10 “(B) any other grant administered by the
11 Department of Justice that is substantially re-
12 lated to law enforcement (including enforcement
13 of the immigration laws), immigration, enforce-
14 ment of the immigration laws, or naturalization
15 or administered by the Department of Home-
16 land Security that is substantially related to im-
17 migration, the enforcement of the immigration
18 laws, or naturalization.

19 “(2) TRANSFER OF CUSTODY OF ALIENS PEND-
20 ING REMOVAL PROCEEDINGS.—The Secretary, at the
21 Secretary’s discretion, may decline to transfer an
22 alien in the custody of the Department of Homeland
23 Security to a State or political subdivision of a State
24 found not to be in compliance with subsection (a) or

1 (b), regardless of whether the State or political sub-
2 division of the State has issued a writ or warrant.

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

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

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

1 eligible again after the Secretary of Homeland Secu-
2 rity certifies that the jurisdiction has come into com-
3 pliance.

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

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

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

22 **SEC. 3. CLARIFYING THE AUTHORITY OF ICE DETAINEES.**

23 (a) IN GENERAL.—Section 287(d) of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1357(d)) is amended
25 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 or public official acting in an official capac-
22 ity in the appropriate Federal court if the State or
23 political subdivision, except as provided in paragraph
24 (3)—

1 (A) released the alien from custody prior
2 to the commission of such crime as a con-
3 sequence of the State or political subdivision's
4 declining to honor a detainer issued pursuant to
5 section 287(d)(1) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1357(d)(1));

7 (B) has in effect a statute, policy, or prac-
8 tice not in compliance with section 642 of the
9 Illegal Immigration Reform and Immigrant Re-
10 sponsibility Act of 1996 (8 U.S.C. 1373) as
11 amended, and as a consequence of its statute,
12 policy, or practice, released the alien from cus-
13 tody prior to the commission of such crime; or

14 (C) has in effect a statute, policy, or prac-
15 tice requiring a subordinate political subdivision
16 to decline to honor any or all detainees issued
17 pursuant to section 287(d)(1) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1357(d)(1)),
19 and, as a consequence of its statute, policy or
20 practice, the subordinate political subdivision
21 declined to honor a detainer issued pursuant to
22 such section, and as a consequence released the
23 alien from custody prior to the commission of
24 such crime.

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

6 (3) PROPER DEFENDANT.—If a political sub-
7 division of a State declines to honor a detainer
8 issued pursuant to section 287(d)(1) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1357(d)) as
10 a consequence of the State or another political sub-
11 division with jurisdiction over the subdivision prohib-
12 iting the subdivision through a statute or other legal
13 requirement of the State or other political subdivi-
14 sion—

15 (A) from honoring the detainer; or

16 (B) fully complying with section 642 of the
17 Illegal Immigration Reform and Immigrant Re-
18 sponsibility Act of 1996 (8 U.S.C. 1373),

19 and, as a consequence of the statute or other legal
20 requirement of the State or other political subdivi-
21 sion, the subdivision released the alien referred to in
22 paragraph (1) from custody prior to the commission
23 of the crime referred to in that paragraph, the State
24 or other political subdivision that enacted the statute
25 or other legal requirement, shall be deemed to be the

1 proper defendant in a cause of action under this
2 subsection, and no such cause of action may be
3 maintained against the political subdivision which
4 declined to honor the detainer.

5 (4) ATTORNEY'S FEE AND OTHER COSTS.—In
6 any action or proceeding under this subsection the
7 court shall allow a prevailing plaintiff a reasonable
8 attorney's fee as part of the costs, and include ex-
9 pert fees as part of the attorney's fee.

10 (d) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), a State or political subdivision of a State
13 that has in effect a statute, policy or practice pro-
14 viding that it not comply with any or all Department
15 of Homeland Security detainers issued pursuant to
16 section 287(d)(1) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1357(d)) shall not be eligible to
18 receive—

19 (A) any of the funds that would otherwise
20 be allocated to the State or political subdivision
21 under section 241(i) of the Immigration and
22 Nationality Act (8 U.S.C. 1231(i)), the “Cops
23 on the Beat” program under part Q of title I
24 of the Omnibus Crime Control and Safe Streets
25 Act of 1968 (34 U.S.C. 10301 et seq.), or the

1 Edward Byrne Memorial Justice Assistance
2 Grant Program under subpart 1 of part E of
3 title I of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (34 U.S.C. 10151 et seq.);
5 or

6 (B) any other grant administered by the
7 Department of Justice that is substantially re-
8 lated to law enforcement (including enforcement
9 of the immigration laws), immigration, or natu-
10 ralization or grant administered by the Depart-
11 ment of Homeland Security that is substantially
12 related to immigration, enforcement of the im-
13 migration laws, or naturalization.

14 (2) EXCEPTION.—A political subdivision de-
15 scribed in subsection (c)(3) that declines to honor a
16 detainer issued pursuant to section 287(d)(1) of the
17 Immigration and Nationality Act (8 U.S.C.
18 1357(d)(1)) as a consequence of being required to
19 comply with a statute or other legal requirement of
20 a State or another political subdivision with jurisdic-
21 tion over that political subdivision, shall remain eli-
22 gible to receive grant funds described in paragraph
23 (1). In the case described in the previous sentence,
24 the State or political subdivision that enacted the

1 statute or other legal requirement shall not be eligi-
2 ble to receive such funds.

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