

119TH CONGRESS
1ST SESSION

H. R. 864

To clarify the Federal Government’s jurisdiction over immigration law and policy.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2025

Mr. KILEY of California introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To clarify the Federal Government’s jurisdiction over immigration law and policy.

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 “Freedom to Cooperate
5 Act”.

6 **SEC. 2. NULLIFYING CONTRADICTORY STATE LAWS ON IM-**
7 **MIGRATION AND SANCTUARY POLICIES THAT**
8 **LACK STANDING.**

9 (a) CONGRESSIONAL INTENT.—In as much as Fed-
10 eral law takes precedence over State laws in the enact-

1 ment, implementation, and administration of immigration
2 policy, it is the intent of Congress that State laws, regula-
3 tions, or executive directives regarding sanctuary policies
4 should not hinder the ability of local law enforcement to
5 comply with Federal immigration enforcement provisions,
6 including full cooperation with Federal agencies.

7 (b) IN GENERAL.—Section 642 of the Illegal Immi-
8 gration Reform and Immigrant Responsibility Act of 1996
9 (8 U.S.C. 1373) is amended—

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

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of Federal, State, or local law, no State may pro-
14 hibit, or in any way restrict, a Federal, State, or local gov-
15 ernment 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 the immigration
21 laws.”;

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

24 “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-
25 standing any other provision of Federal, State, or local

1 law, no State may prohibit, or in any way restrict, a Fed-
2 eral, State, or local government entity, official, or other
3 personnel from undertaking any of the following law en-
4 forcement activities as they relate to information regard-
5 ing the immigration status, lawful or unlawful, the inad-
6 missibility or deportability, or the custody status, of any
7 individual:

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

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

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

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

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

22 “(d) CONSTRUCTION.—Nothing in this section shall
23 require law enforcement officials from States to report or
24 arrest victims or witnesses of a criminal offense.”.

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

2 Section 287(d) of the Immigration and Nationality
3 Act (8 U.S.C. 1357(d)) is amended to read as follows:

4 “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE
5 ALIENS.—

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

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

18 “(A) the individual who is the subject of
19 the detainer—

20 “(i) matches, pursuant to biometric
21 confirmation or other Federal database
22 records, the identity of an alien who the
23 Secretary of Homeland Security has rea-
24 sonable grounds to believe to be inadmis-
25 sible or deportable;

1 “(ii) is the subject of ongoing removal
2 proceedings, including matters where a
3 charging document has already been
4 served;

5 “(iii) has previously been ordered re-
6 moved from the United States and such an
7 order is administratively final; or

8 “(iv) has made voluntary statements
9 or provided reliable evidence that indicate
10 that the alien is an inadmissible or deport-
11 able alien; or

12 “(B) the Secretary of Homeland Security
13 otherwise has reasonable grounds to believe
14 that the individual who is the subject of the de-
15 tainer is an inadmissible or deportable alien.

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

1 be released from the custody of the relevant Federal,
2 State, or local law enforcement entity.

3 “(4) IMMUNITY.—

4 “(A) IN GENERAL.—A State or a political
5 subdivision of a State (and the officials and
6 personnel of the State or subdivision acting in
7 their official capacities), and a nongovernmental
8 entity (and its personnel) contracted by the
9 State or political subdivision for the purpose of
10 providing detention, acting in compliance with a
11 Department of Homeland Security detainer
12 issued pursuant to this section who temporarily
13 holds an alien in its custody pursuant to the
14 terms of a detainer so that the alien may be
15 taken into the custody of the Department of
16 Homeland Security, shall be considered to be
17 acting under color of Federal authority for pur-
18 poses of determining their liability and shall be
19 held harmless for their compliance with the de-
20 tainer in any suit seeking any punitive, compen-
21 satory, or other monetary damages.

22 “(B) FEDERAL GOVERNMENT AS DEFEND-
23 ANT.—In any civil action arising out of the
24 compliance with a Department of Homeland Se-
25 curity detainer by a State or a political subdivi-

1 sion of a State (and the officials and personnel
2 of the State or subdivision acting in their offi-
3 cial capacities), or a nongovernmental entity
4 (and its personnel) contracted by the State or
5 political subdivision for the purpose of providing
6 detention, the United States Government shall
7 be the proper party named as the defendant in
8 the suit in regard to the detention resulting
9 from compliance with the detainer.

10 “(C) BAD FAITH EXCEPTION.—Subpara-
11 graphs (A) and (B) shall not apply to any mis-
12 treatment of an individual by a State or a polit-
13 ical subdivision of a State (and the officials and
14 personnel of the State or subdivision acting in
15 their official capacities), or a nongovernmental
16 entity (and its personnel) contracted by the
17 State or political subdivision for the purpose of
18 providing detention.”.

○