

114TH CONGRESS
1ST SESSION

S. 1842

To ensure State and local compliance with all Federal immigration detainers on aliens in custody and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2015

Mr. SESSIONS (for himself, Mr. JOHNSON, Mr. COTTON, Mr. INHOFE, and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure State and local compliance with all Federal immigration detainers on aliens in custody 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 “Protecting American
5 Lives Act”.

6 **SEC. 2. DEFINITIONS AND SEVERABILITY.**

7 (a) DEFINITIONS.—In this Act:

8 (1) DEPARTMENT.—The term “Department”
9 means the Department of Homeland Security.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Homeland Security.

3 (3) STATE.—The term “State” has the mean-
4 ing given to such term in section 101(a)(36) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1101(a)(36)).

7 (b) SEVERABILITY.—If any provision of this Act, or
8 the application of such provision to any person or cir-
9 cumstance, is held invalid, the remainder of this Act, and
10 the application of such provision to other persons not simi-
11 larly situated or to other circumstances, shall not be af-
12 fected by such invalidation.

13 **SEC. 3. INFORMATION SHARING REGARDING CRIMINAL**
14 **ALIENS.**

15 Section 642 of the Illegal Immigration Reform and
16 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is
17 amended—

18 (1) by striking “Immigration and Naturaliza-
19 tion Service” each place it appears and inserting
20 “Department of Homeland Security”;

21 (2) in subsection (a), by striking “may” and in-
22 serting “shall”;

23 (3) in subsection (b)—

1 (A) by striking “no person or agency may”
 2 and inserting “a person or agency shall not”;
 3 and

4 (B) by striking “doing any of the following
 5 with respect to information” and inserting “un-
 6 dertaking any of the following law enforcement
 7 activities”; and

8 (4) by striking paragraphs (1) through (3) and
 9 inserting the following:

10 “(1) Notifying the Federal Government regard-
 11 ing the presence of inadmissible and deportable
 12 aliens who are encountered by law enforcement per-
 13 sonnel of a State or political subdivision of a State.

14 “(2) Complying with requests for information
 15 from Federal law enforcement.”; and

16 (5) by adding at the end the following:

17 “(d) SANCTUARY POLICES.—Notwithstanding any
 18 other provision of Federal, State, or local law, a Federal,
 19 State, or local government entity or official shall not issue
 20 in the form of resolutions, ordinances, administrative ac-
 21 tions, general or special orders, or departmental policies
 22 that violate Federal law or restrict a State or political sub-
 23 division of a State from complying with Federal law or
 24 coordinating with Federal law enforcement.

25 “(e) COMPLIANCE.—

“(1) IN GENERAL.—A State, or a political subdivision of a State, that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision of the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers’ routine law enforcement duties 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)) or 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

“(B) any other law enforcement or Department of Homeland Security grant.

“(2) ANNUAL DETERMINATION.—

“(A) REQUIREMENT.—Not later than March 1 of each year, the Secretary of Homeland Security shall determine which States or political subdivisions of a State are not in compliance with this section and report such determination to Congress.

1 “(B) INELIGIBILITY FOR FINANCIAL AS-
 2 SISTANCE.—Any jurisdiction that the Secretary
 3 determines is not in compliance under subpara-
 4 graph (A)—

5 “(i) shall be ineligible to receive Fed-
 6 eral financial assistance as provided in
 7 paragraph (1) for a minimum period of 1
 8 year; and

9 “(ii) shall only become eligible for
 10 such assistance after the Secretary certifies
 11 that the jurisdiction is in compliance.

12 “(3) REALLOCATION.—Any funds that are not
 13 allocated to a State or to a political subdivision of
 14 a State, due to the failure of the State, or of the po-
 15 litical subdivision of the State, to comply with this
 16 section shall be reallocated to States, or to political
 17 subdivisions of States, that comply with such sub-
 18 section.

19 “(f) STATE AND LOCAL LAW ENFORCEMENT PROVI-
 20 SION OF INFORMATION ABOUT APPREHENDED ALIENS.—

21 “(1) PROVISION OF INFORMATION.—In compli-
 22 ance with this section and section 434 of the Per-
 23 sonal Responsibility and Work Opportunity Rec-
 24 onciliation Act of 1996 (8 U.S.C. 1644), each State,
 25 and each political subdivision of a State, shall pro-

1 vide the Secretary of Homeland Security in a timely
2 manner with identifying information with respect to
3 each alien in the custody of the State, or a political
4 subdivision of the State, who is believed to be inad-
5 missible or deportable.

6 “(2) ANNUAL REPORT ON COMPLIANCE.—Not
7 later than March 1 of each year, the Secretary shall
8 determine which States, or the political subdivisions
9 of States, are not in compliance with this section
10 and submit such determination to Congress.

11 “(g) REIMBURSEMENT.—The Secretary of Homeland
12 Security shall reimburse States, and political subdivisions
13 of a State, for all reasonable costs, as determined by the
14 Secretary, incurred by the State, or the political subdivi-
15 sion of a State, as a result of providing information under
16 subsection (f)(1).

17 “(h) CONSTRUCTION.—Nothing in this section shall
18 require law enforcement officials of a State, or from polit-
19 ical subdivisions of a State—

20 “(1) to provide the Secretary of Homeland Se-
21 curity with information related to a victim of a
22 crime or witness to a criminal offense; or

23 “(2) to otherwise report or arrest such a victim
24 or witness.”.

1 **SEC. 4. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

2 (a) IN GENERAL.—Except as otherwise provided by
 3 Federal law or rule of procedure, the Secretary shall exe-
 4 cute all lawful writs, process, and orders issued under the
 5 authority of the United States, and shall command all nec-
 6 essary assistance to execute the Secretary’s duties.

7 (b) STATE AND LOCAL COOPERATION WITH DHS
 8 DETAINERS.—A State, or a political subdivision of a
 9 State, that has in effect a statute or policy or practice
 10 providing that it not comply with any Department de-
 11 tainer ordering that it temporarily hold an alien in their
 12 custody so that the alien may be taken into Federal cus-
 13 tody, or transport the alien for transfer to Federal cus-
 14 tody, shall not be eligible to receive—

15 (1) any of the funds that would otherwise be al-
 16 located to the State or political subdivision under
 17 section 241(i) of the Immigration and Nationality
 18 Act (8 U.S.C. 1231(i)) or the “Cops on the Beat”
 19 program under part Q of title I of the Omnibus
 20 Crime Control and Safe Streets Act of 1968 (42
 21 U.S.C. 3796dd et seq.); or

22 (2) any other law enforcement or Department
 23 grant.

24 (c) IMMUNITY.—A State or a political subdivision of
 25 a State acting in compliance with a Department detainer
 26 who temporarily holds aliens in its custody so that they

1 may be taken into Federal custody, or transports the
 2 aliens for transfer to Federal custody, shall be considered
 3 to be acting under color of Federal authority for purposes
 4 of determining its liability, and immunity from suit, in
 5 civil actions brought by the aliens under Federal or State
 6 law.

7 (d) PROBABLE CAUSE.—It is the sense of Congress
 8 that the Department has probable cause to believe that
 9 an alien is inadmissible or deportable when it issues a de-
 10 tainer regarding such alien under the standards in place
 11 on the date of introduction of this Act.

12 **SEC. 5. ILLEGAL REENTRY.**

13 Section 276 of the Immigration and Nationality Act
 14 (8 U.S.C. 1326) is amended—

15 (1) in subsection (a), in the undesignated mat-
 16 ter following paragraph (2), by striking “not more
 17 than 2 years,” and inserting “not less than 5
 18 years,”; and

19 (2) in subsection (b)—

20 (A) in paragraph (1), by inserting “not
 21 less than 5 years and” after “imprisoned”;

22 (B) in paragraph (2), by inserting “not
 23 less than 5 years and” after “imprisoned”;

24 (C) in paragraph (3), by striking “sen-
 25 tence.” and inserting “sentence;”; and

- 1 (D) in paragraph (4), by inserting “not
- 2 less than 5 years and” after “imprisoned for”.

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