

116TH CONGRESS
2D SESSION

H. R. 9062

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.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 31, 2020

Mr. KING of Iowa introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

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 (42 U.S.C. 3796dd 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 (42 U.S.C. 3750 et seq.);
9 or

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

15 “(2) TRANSFER OF CUSTODY OF ALIENS PEND-
16 ING REMOVAL PROCEEDINGS.—The Secretary, at the
17 Secretary’s discretion, may decline to transfer an
18 alien in the custody of the Department of Homeland
19 Security to a State or political subdivision of a State
20 found not to be in compliance with subsection (a) or
21 (b), regardless of whether the State or political sub-
22 division of the State has issued a writ or warrant.

23 “(3) TRANSFER OF CUSTODY OF CERTAIN
24 ALIENS PROHIBITED.—The Secretary shall not
25 transfer an alien with a final order of removal pur-

1 suant to paragraph (1)(A) or (5) of section 241(a)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1231(a)) to a State or a political subdivision of a
4 State that is found not to be in compliance with sub-
5 section (a) or (b).

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

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

24 “(6) REALLOCATION.—Any funds that are not
25 allocated to a State or to a political subdivision of

1 a State due to the failure of the State or of the po-
 2 litical subdivision of the State to comply with sub-
 3 section (a) or (b) shall be reallocated to States or to
 4 political subdivisions of States that comply with both
 5 such subsections.”.

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

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

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

17 “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE
 18 ALIENS.—

19 “(1) IN GENERAL.—In the case of an individual
 20 who is arrested by any Federal, State, or local law
 21 enforcement official or other personnel for the al-
 22 leged violation of any criminal or motor vehicle law,
 23 the Secretary may issue a detainer regarding the in-
 24 dividual to any Federal, State, or local law enforce-
 25 ment entity, official, or other personnel if the Sec-

1 retary has probable cause to believe that the indi-
2 vidual is an inadmissible or deportable alien.

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

5 “(A) the individual who is the subject of
6 the detainer matches, pursuant to biometric
7 confirmation or other Federal database records,
8 the identity of an alien who the Secretary has
9 reasonable grounds to believe to be inadmissible
10 or deportable;

11 “(B) the individual who is the subject of
12 the detainer is the subject of ongoing removal
13 proceedings, including matters where a charg-
14 ing document has already been served;

15 “(C) the individual who is the subject of
16 the detainer has previously been ordered re-
17 moved from the United States and such an
18 order is administratively final;

19 “(D) the individual who is the subject of
20 the detainer has made voluntary statements or
21 provided reliable evidence that indicate that
22 they are an inadmissible or deportable alien; or

23 “(E) the Secretary otherwise has reason-
24 able grounds to believe that the individual who

1 is the subject of the detainer is an inadmissible
2 or deportable alien.

3 “(3) TRANSFER OF CUSTODY.—If the Federal,
4 State, or local law enforcement entity, official, or
5 other personnel to whom a detainer is issued com-
6 plies with the detainer and detains for purposes of
7 transfer of custody to the Department of Homeland
8 Security the individual who is the subject of the de-
9 tainer, the Department may take custody of the in-
10 dividual within 48 hours (excluding weekends and
11 holidays), but in no instance be compelled to hold
12 the subject more than 96 hours, but may hold the
13 subject up to 30 days, following.”.

14 (b) IMMUNITY.—

15 (1) IN GENERAL.—A State or a political sub-
16 division of a State (and the officials and personnel
17 of the State or subdivision acting in their official ca-
18 pacities), and a nongovernmental entity (and its per-
19 sonnel) contracted by the State or political subdivi-
20 sion for the purpose of providing detention, acting in
21 compliance with a Department of Homeland Secu-
22 rity detainer issued pursuant to this section who
23 temporarily holds an alien in its custody pursuant to
24 the terms of a detainer so that the alien may be
25 taken into the custody of the Department of Home-

land Security, shall be considered to be acting under color of Federal authority for purposes of determining their liability and shall be held harmless for their compliance with the detainer in any suit seeking any punitive, compensatory, or other monetary damages.

(2) FEDERAL GOVERNMENT AS DEFENDANT.—

In any civil action arising out of the compliance with a Department of Homeland Security detainer by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, the United States Government shall be the proper party named as the defendant in the suit in regard to the detention resulting from compliance with the detainer.

(3) BAD FAITH EXCEPTION.—Paragraphs (1)

and (2) shall not apply to any mistreatment of an individual by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) con-

1 tracted by the State or political subdivision for the
2 purpose of providing detention.

3 **SEC. 4. PRIVATE RIGHT OF ACTION.**

4 (a) CAUSE OF ACTION.—Any individual, or a spouse,
5 parent, or child of that individual (if the individual is de-
6 ceased), who is the victim of a murder, rape, or any felony,
7 as defined by the State, for which an alien (as defined
8 in section 101(a)(3) of the Immigration and Nationality
9 Act (8 U.S.C. 1101(a)(3))) has been convicted and sen-
10 tenced to a term of imprisonment of at least 1 year, may
11 bring an action against a State or political subdivision of
12 a State in the appropriate Federal or State court—

13 (1) if the State or political subdivision released
14 the alien from custody prior to the commission of
15 such crime, and had knowledge that the alien was
16 unlawfully present in the United States; or

17 (2) the crime was a consequence of the State or
18 political subdivision declining to honor a detainer or
19 warrant issued pursuant to section 287(d)(1) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1357(d)(1)).

22 (b) APPLICATION.—Subject to subsection (c), sub-
23 section (a) shall apply without regard to whether the crime
24 was committed before, on, or after the date of the enact-
25 ment of this Act.

1 (c) LIMITATION ON BRINGING ACTION.—

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

7 (2) EXCEPTION.—Paragraph (1) shall not
8 apply to an action brought under this section based
9 on a crime committed before the date of the enact-
10 ment of this Act.

11 (d) ATTORNEY'S FEES AND OTHER COSTS.—In any
12 action or proceeding under this section the court shall
13 allow a prevailing plaintiff a reasonable attorneys' fee as
14 part of the costs, and include expert fees as part of the
15 attorneys' fee.

16 **SEC. 5. MANDATORY DETENTION OF CERTAIN ALIENS**
17 **CHARGED WITH A CRIME RESULTING IN**
18 **DEATH OR SERIOUS BODILY INJURY.**

19 Section 236(c) of the Immigration and Nationality
20 Act (8 U.S.C. 1226(c)) is amended—

21 (1) in paragraph (1)—

22 (A) in subparagraphs (A) and (B), by
23 striking the comma at the end of each subpara-
24 graph and inserting a semicolon;

25 (B) in subparagraph (C)—

1 (i) by striking “sentence” and insert-
2 ing “sentenced”; and

3 (ii) by striking “, or” and inserting a
4 semicolon;

5 (C) in subparagraph (D), by striking the
6 comma at the end and inserting “; or”; and

7 (D) by inserting after subparagraph (D)
8 the following:

9 “(E)(i)(I) was not inspected and admitted
10 into the United States;

11 “(II) held a nonimmigrant visa (or other
12 documentation authorizing admission into the
13 United States as a nonimmigrant) that has
14 been revoked under section 221(i); or

15 “(III) is described in section
16 237(a)(1)(C)(i); and

17 “(ii) has been charged by a prosecuting au-
18 thority in the United States with any crime
19 that resulted in the death or serious bodily in-
20 jury (as defined in section 1365(h)(3) of title
21 18, United States Code) of another person,”;
22 and

23 (2) by adding at the end the following:

24 “(3) NOTIFICATION REQUIREMENT.—Upon en-
25 counterering or gaining knowledge of an alien de-

scribed in paragraph (1), the Assistant Secretary of Homeland Security for Immigration and Customs Enforcement shall make reasonable efforts—

“(A) to obtain information from law enforcement agencies and from other available sources regarding the identity of any victims of the crimes for which such alien was charged or convicted; and

“(B) to provide the victim or, if the victim is deceased, a parent, guardian, spouse, or closest living relative of such victim, with information, on a timely and ongoing basis, including—

“(i) the alien’s full name, aliases, date of birth, and country of nationality;

“(ii) the alien’s immigration status and criminal history;

“(iii) the alien’s custody status and any changes related to the alien’s custody; and

“(iv) a description of any efforts by the United States Government to remove the alien from the United States.”.

SEC. 6. SAVINGS PROVISION.

Nothing in this Act, or the amendments made by this Act, may be construed to limit the rights of crime victims

- 1 under any other provision of law, including section 3771
- 2 of title 18, United States Code.

