

117TH CONGRESS
1ST SESSION

H. R. 3375

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

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Mr. BROOKS (for himself and Mr. GOODEN of Texas) 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 subdivisions 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 “(e) CONSTRUCTION.—Nothing in this section shall
7 require law enforcement officials from States, or from po-
8 litical subdivisions of States, to report or arrest victims
9 or witnesses of a criminal offense.”.

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

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

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

21 “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE
22 ALIENS.—

23 “(1) IN GENERAL.—In the case of an individual
24 who is arrested by any Federal, State, or local law
25 enforcement official or other personnel for the al-

1 leged violation of any criminal or motor vehicle law,
2 the Secretary may issue a detainer regarding the in-
3 dividual to any Federal, State, or local law enforce-
4 ment entity, official, or other personnel if the Sec-
5 retary has probable cause to believe that the indi-
6 vidual is an inadmissible or deportable alien.

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

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

15 “(B) the individual who is the subject of
16 the detainer is the subject of ongoing removal
17 proceedings, including matters where a charg-
18 ing document has already been served;

19 “(C) the individual who is the subject of
20 the detainer has previously been ordered re-
21 moved from the United States and such an
22 order is administratively final;

23 “(D) the individual who is the subject of
24 the detainer has made voluntary statements or

1 provided reliable evidence that indicate that
2 they are an inadmissible or deportable alien; or

3 “(E) the Secretary otherwise has reason-
4 able grounds to believe that the individual who
5 is the subject of the detainer is an inadmissible
6 or deportable alien.

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

19 (b) IMMUNITY.—

20 (1) IN GENERAL.—A State or a political sub-
21 division of a State (and the officials and personnel
22 of the State or subdivision acting in their official ca-
23 pacities), and a nongovernmental entity (and its per-
24 sonnel) contracted by the State or political subdivi-
25 sion for the purpose of providing detention, acting in

1 compliance with a Department of Homeland Secu-
2 rity detainer issued pursuant to this section who
3 temporarily holds an alien in its custody pursuant to
4 the terms of a detainer so that the alien may be
5 taken into the custody of the Department of Home-
6 land Security, shall be considered to be acting under
7 color of Federal authority for purposes of deter-
8 mining their liability and shall be held harmless for
9 their compliance with the detainer in any suit seek-
10 ing any punitive, compensatory, or other monetary
11 damages.

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

24 (3) BAD FAITH EXCEPTION.—Paragraphs (1)
25 and (2) shall not apply to any mistreatment of an

1 individual by a State or a political subdivision of a
2 State (and the officials and personnel of the State
3 or subdivision acting in their official capacities), or
4 a nongovernmental entity (and its personnel) con-
5 tracted by the State or political subdivision for the
6 purpose of providing detention.

7 (c) PRIVATE RIGHT OF ACTION.—

8 (1) CAUSE OF ACTION.—Any individual, or a
9 spouse, parent, or child of that individual (if the in-
10 dividual is deceased), who is the victim of a murder,
11 rape, or any felony, as defined by the State, for
12 which an alien (as defined in section 101(a)(3) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1101(a)(3))) has been convicted and sentenced to a
15 term of imprisonment of at least 1 year, may bring
16 an action against a State or political subdivision of
17 a State in the appropriate Federal or State court if
18 the State or political subdivision released the alien
19 from custody prior to the commission of such crime
20 as a consequence of the State or political subdivi-
21 sion's declining to honor a detainer issued pursuant
22 to section 287(d)(1) of the Immigration and Nation-
23 ality Act (8 U.S.C. 1357(d)(1)).

24 (2) LIMITATION ON BRINGING ACTION.—An ac-
25 tion brought under this subsection may not be

1 brought later than 10 years following the occurrence
2 of the crime, or death of a person as a result of such
3 crime, whichever occurs later.

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

9 **SEC. 4. SARAH AND GRANT'S LAW.**

10 (a) DETENTION OF ALIENS DURING REMOVAL PRO-
11 CEEDINGS.—

12 (1) CLERICAL AMENDMENTS.—(A) Section 236
13 of the Immigration and Nationality Act (8 U.S.C.
14 1226) is amended by striking “Attorney General”
15 each place it appears (except in the second place
16 that term appears in section 236(a)) and inserting
17 “Secretary of Homeland Security”.

18 (B) Section 236(a) of such Act (8 U.S.C.
19 1226(a)) is amended by inserting “the Secretary of
20 Homeland Security or” before “the Attorney Gen-
21 eral—”.

22 (C) Section 236(e) of such Act (8 U.S.C.
23 1226(e)) is amended by striking “Attorney Gen-
24 eral’s” and inserting “Secretary of Homeland Secu-
25 rity’s”.

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

4 “(f) LENGTH OF DETENTION.—

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

11 “(2) CONSTRUCTION.—The length of detention
12 under this section shall not affect detention under
13 section 241.”.

14 (3) DETENTION OF CRIMINAL ALIENS.—Section
15 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is
16 amended—

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

19 (B) by inserting after subparagraph (D)
20 the following:

21 “(E) is unlawfully present in the United
22 States and has been convicted for driving while
23 intoxicated (including a conviction for driving
24 while under the influence or impaired by alcohol
25 or drugs) without regard to whether the convic-

1 tion is classified as a misdemeanor or felony
2 under State law, or

3 “(F)(i)(I) is inadmissible under section
4 212(a)(6)(i),

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

7 “(III) is deportable under section
8 237(a)(1)(C)(i), and

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

14 (C) by amending the matter following sub-
15 paragraph (F) (as added by subparagraph (B)
16 of this paragraph) to read as follows:

17 “any time after the alien is released, without regard
18 to whether an alien is released related to any activ-
19 ity, offense, or conviction described in this para-
20 graph; to whether the alien is released on parole, su-
21 pervised release, or probation; or to whether the
22 alien may be arrested or imprisoned again for the
23 same offense. If the activity described in this para-
24 graph does not result in the alien being taken into
25 custody by any person other than the Secretary,

1 then when the alien is brought to the attention of
2 the Secretary or when the Secretary determines it is
3 practical to take such alien into custody, the Sec-
4 retary shall take such alien into custody.”.

5 (4) ADMINISTRATIVE REVIEW.—Section 236 of
6 the Immigration and Nationality Act (8 U.S.C.
7 1226), as amended by paragraph (2), is further
8 amended by adding at the end the following:

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

15 “(1) Aliens in exclusion proceedings.

16 “(2) Aliens described in section 212(a)(3) or
17 237(a)(4).

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

19 “(h) RELEASE ON BOND.—

20 “(1) IN GENERAL.—An alien detained under
21 subsection (a) may seek release on bond. No bond
22 may be granted except to an alien who establishes
23 by clear and convincing evidence that the alien is not
24 a flight risk or a danger to another person or the
25 community.

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

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

9 (B) Section 236(b) of such Act (8 U.S.C.
10 1226(b)) is amended by striking “parole” and in-
11 serting “recognizance”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall take effect on the date of the enact-
14 ment of this Act and shall apply to any alien in detention
15 under the provisions of section 236 of the Immigration
16 and Nationality Act (8 U.S.C. 1226), as so amended, or
17 otherwise subject to the provisions of such section, on or
18 after such date.

○