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119TH CONGRESS
2D SESSION

H. R. 7640

To amend the Immigration and Nationality Act to improve public safety through the enforcement of Federal immigration law in the interior of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2026

Mr. MCCLINTOCK introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the Immigration and Nationality Act to improve public safety through the enforcement of Federal immigration law in the interior of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Shut Down Sanctuary Policies Act''.

SEC. 2. STATE AND LOCAL COOPERATION WITH ENFORCEMENT OF IMMIGRATION LAW.

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) in the header by striking ''**COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE**'' and inserting ''**STATE AND LOCAL GOVERNMENT COOPERATION WITH IMMIGRATION ENFORCEMENT**'';

(2) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The right of any Federal, State, or local government entity, official, or other personnel to comply with or enforce the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), or to assist or cooperate with Federal law enforcement entities, Federal law enforcement officials, immigration officials, or other personnel regarding the enforcement of such laws, shall not be prohibited or in any way restricted.'';

(3) by striking subsection (b) and inserting the following:

''(b) LAW ENFORCEMENT ACTIVITIES.—

''(1) IN GENERAL.—The right of any Federal, State, or local government entity, official, or other personnel to undertake law enforcement activities described under paragraph (2) as they relate to information regarding the citizenship or immigration status, lawful or unlawful, the inadmissibility or deportability, or the custody status of any individual (including any information that could reasonably be used to determine such status, including personal identifying information) shall not be prohibited or in any way restricted.

''(2) LAW ENFORCEMENT ACTIVITIES DESCRIBED.—The law enforcement activities described in this paragraph are the following:

''(A) Making inquiries to any individual to obtain the information described under paragraph (1) regarding such individual or any other individuals.

''(B) Maintaining the information described under paragraph (1).

''(C) Actions taken by a State, or local government entity, official, or other personnel to—

''(i) notify the Federal Government regarding the presence of individuals who

are encountered by law enforcement officials or other personnel of a State or local government; and

''(ii) comply with requests for such information from Federal law enforcement entities, officials, or other personnel.'';

(4) in subsection (c), by striking ''Immigration and Naturalization Service'' and inserting ''Department of Homeland Security''; and

(5) by adding at the end the following:

''(d) CONTRARY LAWS SUPERSEDED.—The provisions under subsections (a) and (b) shall supersede any and all State and local laws, ordinances, regulations, and policies that directly or indirectly prohibit or restrict, in whole or in part, the activities described in such subsections.

''(e) REMOVAL.—A civil action or criminal prosecution that is commenced in a State court and that is against or directed to a State or local government entity (and an official or other personnel of the State or local government entity acting in their official capacities) based on their compliance with subsection (a) or (b) may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending or to the district court of the United States

for the district and division in which the defendant was served with process.

''(f) IMMUNITY.—A State or local government entity (and an official or other personnel of the State or local government entity acting in their official capacities) acting in compliance with subsection (a) or (b) 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 in any suit seeking any punitive, compensatory, or other monetary damages.

''(g) FEDERAL GOVERNMENT AS DEFENDANT.—Following removal of any civil action arising out of compliance with subsection (a) or (b) the United States Government shall be substituted as the party defendant in the suit.

''(h) MISTREATMENT EXCEPTION.—Subsections (f) and (g) shall not apply for claims the district court determines arose from any mistreatment of an individual by a State or local government entity (or an official or other personnel of the State or local government entity acting in their official capacities) exercising the rights described under subsection (a) or (b).

''(i) FEDERAL FUNDING.—

''(1) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—A State or local government that is deter-

mined, pursuant to paragraph (4), to restrict the rights described under subsection (a) or (b) or that has in effect a statute, policy, or practice providing that it not comply with valid Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), shall not be eligible to receive for the period described in paragraph (6)—

"(A) any of the funds that would otherwise be allocated to the State or local government under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), the 'Cops on the Beat' program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10381 et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.); or

"(B) any other grant administered by the Department of Justice or the Department of Homeland Security that is substantially related to law enforcement, immigration, enforcement of the immigration laws, or naturalization.

"(2) TRANSFER OF CUSTODY OF ALIENS PENDING REMOVAL PROCEEDINGS.—The Secretary of Homeland Security, at the Secretary's sole and unreviewable discretion, may decline to transfer an alien in the custody of the Department of Homeland Security to a State or local government determined, pursuant to paragraph (4), to restrict the rights described under subsection (a) or (b), or that has in effect a statute, policy, or practice providing that it not comply with valid Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), regardless of whether the State or local government has issued a writ or warrant.

"(3) TRANSFER OF CUSTODY OF CERTAIN ALIENS PROHIBITED.—The Secretary of Homeland Security shall not transfer an alien with a final order of removal, as defined in section 101(a)(47) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(47)), to a State or local government that is determined, pursuant to paragraph (4), to restrict the rights described under subsection (a) or (b), or that has in effect a statute, policy, or practice providing that it not comply with valid Department of Homeland Security detainers issued pursuant to sec-

tion 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)).

''(4) ANNUAL DETERMINATION.—The Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, shall determine for each fiscal year which States and local governments restrict the rights described under subsection (a) or (b), or that have in effect a statute, policy, or practice providing that they not comply with valid Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), and shall report such determinations to the Committees on the Judiciary of the House of Representatives and the Senate by March 1 of each succeeding fiscal year.

''(5) REPORTS.—The Secretary of Homeland Security shall issue a report on the annual determination made under paragraph (4) at the request of the Committees on the Judiciary of the House of Representatives and the Senate.

''(6) PERIOD DESCRIBED.—Any jurisdiction that is determined to restrict the rights established under subsection (a) or (b) or that has in effect a statute, policy, or practice providing that it not comply with valid Department of Homeland Security de-

tainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) shall be ineligible to receive Federal financial assistance as provided in paragraph (1)—

"(A) for a period of 1 year; or

"(B) until the Secretary of Homeland Security certifies that the jurisdiction has come into compliance, whichever is later.

"(7) REALLOCATION.—Any funds that are not allocated to a State or to a local government due to the State or local government restricting the rights described under subsection (a) or (b), or that has in effect a statute, policy, or practice providing that it not comply with valid Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), shall be reallocated to States or local governments that comply with each such subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that subsection (i) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), as added by this sec-

tion, shall apply only to prohibited acts committed on or after the date of the enactment of this Act.

SEC. 3. CLARIFYING THE AUTHORITY OF ICE DETAINERS.

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

''(d) DETAINER OF INADMISSIBLE OR DEPORTABLE ALIENS.—

''(1) IN GENERAL.—In the case of an individual who is arrested by any Federal, State, or local law enforcement official or other personnel for the alleged violation of any criminal or motor vehicle law, the Secretary of Homeland Security shall issue a detainer regarding the individual to any Federal, State, or local law enforcement entity, official, or other personnel if the Secretary has probable cause to believe that the individual is an inadmissible or deportable alien.

''(2) PROBABLE CAUSE.—Probable cause is established if any of the following criteria is met:

''(A) The individual who is the subject of the detainer matches, pursuant to biometric confirmation or other Federal database records, the identity of an alien who the Secretary has reasonable grounds to believe to be inadmissible or deportable.

"(B) The individual who is the subject of the detainer is the subject of ongoing removal proceedings, including matters in which a charging document has been served.

"(C) The individual who is the subject of the detainer has previously been ordered removed from the United States and such an order is administratively final.

"(D) The individual who is the subject of the detainer has made voluntary statements to an immigration officer or there is other reliable evidence that affirmatively indicates that the individual is an inadmissible or deportable alien.

"(E) The Secretary otherwise has reasonable grounds to believe that the individual who is the subject of the detainer is an inadmissible or deportable alien.

"(3) TRANSFER OF CUSTODY.—If the Federal, State, or local law enforcement entity, official, or other personnel to whom a detainer is issued complies with the detainer and detains for purposes of transfer of custody to the Department of Homeland Security the individual who is the subject of the detainer, the Department may take custody of the individual within 48 hours (excluding weekends and

holidays), but in no instance more than 96 hours, following the date that the individual is otherwise to be released from the custody of the relevant Federal, State, or local law enforcement entity.

''(4) REMOVAL.—A civil action or criminal prosecution that is commenced in a State court and that is against or directed to a State or local government entity (and an official or other personnel of the State or local government entity acting in their official capacities), and a nongovernmental entity (and its personnel) contracted by the State or local government for the purpose of providing detention, acting in compliance with a Department of Homeland Security detainer issued pursuant to this section that temporarily holds an alien in their custody pursuant to the terms of a detainer so that the alien may be taken into the custody of the Department of Homeland Security may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending or to the district court of the United States for the district and division in which the defendant was served with process.

''(5) IMMUNITY.—A State or local government entity (and an official or other personnel of the

State or local government entity acting in their official capacities), and a nongovernmental entity (and its personnel) contracted by the State or local government for the purpose of providing detention, acting in compliance with a Department of Homeland Security detainer issued pursuant to this section that temporarily holds an alien in their custody pursuant to the terms of a detainer so that the alien may be taken into the custody of the Department of Homeland 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.

''(6) FEDERAL GOVERNMENT AS DEFENDANT.—Following removal of any civil action arising out of the compliance with a Department of Homeland Security detainer by a State or local government (and the officials and personnel of the State or local government acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or local government for the purpose of providing detention, the United States Government shall be substituted as the party defendant

in the suit in regard to the detention resulting from compliance with the detainer.

''(7) MISTREATMENT EXCEPTION.—Paragraphs (5) and (6) shall not apply for claims the district court determines arose from any mistreatment of an individual by a State or a local government (and the officials and personnel of the State or local government acting in their official capacities), or a non-governmental entity (and its personnel) contracted by the State or local government for the purpose of providing detention.

''(8) CONTRARY LAWS SUPERSEDED.—The provisions under this section shall supersede any and all State and local laws, ordinances, regulations, and policies that directly or indirectly prohibit or restrict, in whole or in part, the activities described in such section.

''(9) PRIVATE RIGHT OF ACTION.—

''(A) CAUSE OF ACTION.—Any individual, or a spouse, parent, or child of that individual (if the individual is deceased), who is the victim of a murder, rape, any felony (as such terms are defined by the prosecuting jurisdiction), or any aggravated felony (as defined in section 101(a)(43)) of the Immigration and Nationality

Act (8 U.S.C. 1101(a)(43)), for which an alien has been convicted may bring an action against a State or local government (or public official acting in an official capacity) in the appropriate Federal court if the State or local government, except as provided in subparagraphs (B) and (D)—

''(i) released the alien from custody prior to the commission of such crime as a consequence of the State or local government declining to honor a detainer issued pursuant to paragraph (1);

''(ii) has in effect a statute, policy, or practice not in compliance with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and as a consequence of its statute, policy, or practice, released the alien from custody prior to the commission of such crime; or

''(iii) has in effect a statute, policy, or practice requiring a subordinate local government to decline to honor any or all detainers issued pursuant to paragraph (1) and as a consequence of its statute, policy,

or practice, the subordinate local government declined to honor a detainer issued pursuant to such section and released the alien from custody prior to the commission of such crime.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any individual who committed an offense described in such subparagraph.

''(C) LIMITATION ON BRINGING ACTION.—An action may not be brought under this paragraph later than the date that is 10 years following the commission of the crime, or death of a person as a result of such crime, whichever occurs later.

''(D) PROPER DEFENDANT.—If a subordinate local government—

''(i) declines to honor a detainer issued pursuant to paragraph (1) as a consequence of a prohibition imposed on that subordinate local government by a State or another local government with jurisdiction over the subordinate local government that prohibits the subordinate local government from honoring the detainer or fully complying with section 642 of the Illegal Im-

migration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373); and

''(ii) as a consequence of the statute or other legal requirement of the State or local government, the subdivision released the alien referred to in subparagraph (A) from custody prior to the commission of the crime referred to in that paragraph,

the State or other local government that imposed the prohibition shall be the proper defendant in a cause of action under this subsection, and no such cause of action may be maintained against the local government that declined to honor the detainer.

''(E) ATTORNEY'S FEES AND OTHER COSTS.—In any action or proceeding under this paragraph, the court shall award a prevailing plaintiff a reasonable attorney's fee and a reasonable expert fee as part of the costs.''.

SEC. 4. CONSTRUCTION; SEVERABILITY.

Any provision of this Act, or an amendment made by this Act, held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding is that the provision of law

is invalid or unenforceable, in which event such provision shall be deemed severable from this Act and shall not affect the remainder of this Act, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

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