H. R. 1928

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to impose penalties for State noncompliance with enforcement of immigration law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2019

Mr. Reschenthaler (for himself, Mr. Gaetz, Mr. Steube, and Mr. Cline) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to impose penalties for State noncompliance with enforcement of immigration law, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “No Sanctuary for
Criminals Act of 2019”.

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SEC. 2. STATE NONCOMPLIANCE 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) by striking subsection (a) and inserting the following:

“(a) In General.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit or in any way restrict, a Federal, State, or local government entity, official, or other personnel from complying with the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), or from assisting or cooperating with Federal law enforcement entities, officials, or other personnel regarding the enforcement of these laws.”;

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

“(b) Law Enforcement Activities.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit, or in any way restrict, a Federal, State, or local government entity, official, or other personnel from undertaking any of the following law enforcement activities 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:

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

“(2) Notifying the Federal Government regard-
ing the presence of individuals who are encountered
by law enforcement officials or other personnel of a
State or political subdivision of a State.

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

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

(4) by adding at the end the following:

“(d) COMPLIANCE.—

“(1) ELIGIBILITY FOR CERTAIN GRANT PRO-
GRAMS.—A State, or a political subdivision of a
State, that is found not to be in compliance with
subsection (a) or (b) 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

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

“(2) Transfer of custody of aliens pending removal proceedings.—The Secretary, at the Secretary’s discretion, may decline to transfer an alien in the custody of the Department of Homeland Security to a State or political subdivision of a State found not to be in compliance with subsection (a) or
(b), regardless of whether the State or political sub-
division of the State has issued a writ or warrant.

“(3) Transfer of custody of certain aliens prohibited.—The Secretary shall not transfer an alien with a final order of removal pur-
suant to paragraph (1)(A) or (5) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) to a State or a political subdivision of a State that is found not to be in compliance with sub-
section (a) or (b).

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

“(5) Reports.—The Secretary of Homeland Security shall issue a report concerning the compli-
ance with subsections (a) and (b) of any particular State or political subdivision of a State at the re-
quest of the House or the Senate Judiciary Com-
mittee. Any jurisdiction that is found not to be in compliance shall be ineligible to receive Federal fi-
nancial assistance as provided in paragraph (1) for a minimum period of 1 year, and shall only become
eligible again after the Secretary of Homeland Secu-

rity certifies that the jurisdiction has come into com-

pliance.

“(6) REALLOCATION.—Any funds that are not
allocated to a State or to a political subdivision of
a State due to the failure of the State or of the po-

titical subdivision of the State to comply with sub-
section (a) or (b) shall be reallocated to States or to
political subdivisions of States that comply with both
such subsections.

“(e) CONSTRUCTION.—Nothing in this section shall
require law enforcement officials from States, or from po-

titical subdivisions of States, to report or arrest victims
or witnesses of a criminal offense.”.

(b) EFFECTIVE DATE.—The amendments made by
this section shall take effect on the date of the enactment
of this Act, except that subsection (d) of section 642 of
the Illegal Immigration Reform and Immigrant Responsi-
bility 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.

(a) IN GENERAL.—Section 287(d) of the Immigra-
tion 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 may 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 deemed to be established if—

“(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 where a charging document has already been served;

“(C) the individual who is the subject of the detainer has previously been ordered re-
moved 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 or
provided reliable evidence that indicate that
they are an inadmissible or deportable alien; or

“(E) the Secretary otherwise has reason-
able 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 com-
plies 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 de-
tainer, the Department may take custody of the in-
dividual 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.”.

(b) IMMUNITY.—

(1) IN GENERAL.—A State or a political sub-
division of a State (and the officials and personnel
of the State or subdivision acting in their official capacities), and a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, acting in compliance with a Department of Homeland Security detainer issued pursuant to this section who temporarily holds an alien in its 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.

(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) contracted by the State or political subdivision for the purpose of providing detention.

(c) PRIVATE RIGHT OF ACTION.—

(1) 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, or any felony, as defined by the State, for which an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) has been convicted and sentenced to a term of imprisonment of at least 1 year, may bring an action against a State or political subdivision of a State or public official acting in an official capacity in the appropriate Federal court if the State or political subdivision, except as provided in paragraph (3)—
(A) released the alien from custody prior to the commission of such crime as a consequence of the State or political subdivision’s declining to honor a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1));

(B) 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) as amended, and as a consequence of its statute, policy, or practice, released the alien from custody prior to the commission of such crime; or

(C) has in effect a statute, policy, or practice requiring a subordinate political subdivision to decline to honor any or all detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), and, as a consequence of its statute, policy or practice, the subordinate political subdivision declined to honor a detainer issued pursuant to such section, and as a consequence released the alien from custody prior to the commission of such crime.
(2) LIMITATIONS ON BRINGING ACTION.—An action may not be brought under this subsection later than 10 years following the occurrence of the crime, or death of a person as a result of such crime, whichever occurs later.

(3) PROPER DEFENDANT.—If a political subdivision of a State declines to honor a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)) as a consequence of the State or another political subdivision with jurisdiction over the subdivision prohibiting the subdivision through a statute or other legal requirement of the State or other political subdivision—

(A) from honoring the detainer; or

(B) fully complying with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), and, as a consequence of the statute or other legal requirement of the State or other political subdivision, the subdivision released the alien referred to in paragraph (1) from custody prior to the commission of the crime referred to in that paragraph, the State or other political subdivision that enacted the statute or other legal requirement, shall be deemed to be the
proper defendant in a cause of action under this subsection, and no such cause of action may be maintained against the political subdivision which declined to honor the detainer.

(4) ATTORNEY’S FEE AND OTHER COSTS.—In any action or proceeding under this subsection the court shall allow a prevailing plaintiff a reasonable attorney’s fee as part of the costs, and include expert fees as part of the attorney’s fee.

(d) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State or political subdivision of a State that has in effect a statute, policy or practice providing that it not comply with any or all Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)) 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)), 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. 10301 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 that is substantially related to law enforcement (including enforcement of the immigration laws), immigration, or naturalization or grant administered by the Department of Homeland Security that is substantially related to immigration, enforcement of the immigration laws, or naturalization.

(2) EXCEPTION.—A political subdivision described in subsection (c)(3) that declines to honor a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) as a consequence of being required to comply with a statute or other legal requirement of a State or another political subdivision with jurisdiction over that political subdivision, shall remain eligible to receive grant funds described in paragraph (1). In the case described in the previous sentence, the State or political subdivision that enacted the
statute or other legal requirement shall not be eligible to receive such funds.