

1 **SENATE FLOOR VERSION**

2 March 4, 2025

3 SENATE BILL NO. 868

By: Frix and Jett of the Senate

4 and

5 Hill of the House

6
7
8 An Act relating to immigration policy; creating the
9 Prohibition on Sanctuary Policies for Illegal
10 Immigration Act; providing short title; defining
11 terms; prohibiting certain policy; requiring support
12 of federal immigration law; prohibiting certain
13 restriction on certain actions; requiring certain
14 documentation; authorizing certain transport of
15 detainee; disallowing certain detainment; stating
16 certain clarifications; requiring certain agreements
17 between county correctional facilities and federal
18 immigration agency; authorizing certain action for
19 violation; authorizing certain relief; requiring
20 court to enjoin policy in certain event; stating
21 criteria for certain injunction; authorizing Governor
22 to suspend certain funding; providing for
23 codification; and providing an effective date.
24

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 22-126.1 of Title 11, unless
there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Prohibition
on Sanctuary Policies for Illegal Immigration Act".

B. As used in this section:

1 1. "Federal immigration agency" means the United States
2 Department of Justice and the United States Department of Homeland
3 Security, a division within such an agency, including United States
4 Immigration and Customs Enforcement and United States Customs and
5 Border Protection, any successor agency, and any other federal
6 agency charged with the enforcement of immigration law;

7 2. "Immigration detainer" means a facially sufficient written
8 or electronic request issued by a federal immigration agency using
9 that agency's official form to request that another law enforcement
10 agency detain a person based on probable cause to believe that the
11 person to be detained is a removable alien under federal immigration
12 law, including detainers issued pursuant to 8 U.S.C., Sections 1226
13 and 1357 along with a warrant described in subparagraph c of this
14 section. For purposes of this section, an immigration detainer is
15 deemed facially sufficient if:

16 a. the federal immigration agency's official form is
17 complete and indicates on its face that the federal
18 immigration official has probable cause to believe
19 that the person to be detained is a removable alien
20 under federal immigration law, or the federal
21 immigration agency's official form is incomplete and
22 fails to indicate on its face that the federal
23 immigration official has probable cause to believe
24 that the person to be detained is a removable alien

1 under federal immigration law, but is supported by an
2 affidavit, order, or other official documentation that
3 indicates that the federal immigration agency has
4 probable cause to believe that the person to be
5 detained is a removable alien under federal
6 immigration law, and

7 b. the federal immigration agency supplies with its
8 detention request a Form I-200 Warrant for Arrest of
9 Alien or a Form I-205 Warrant of Removal/Deportation
10 or a successor warrant or other warrant authorized by
11 federal law;

12 3. "Inmate" means a person in the custody of a law enforcement
13 agency;

14 4. "Law enforcement agency" means an agency in this state
15 charged with enforcement of state, county, municipal, or federal
16 laws or with managing custody of detained persons in this state and
17 includes municipal police departments, sheriffs' offices, state
18 police departments, state university and college police departments,
19 county correctional agencies, and the Department of Corrections;

20 5. "Local governmental entity" means any county, municipality,
21 or other political subdivision of this state;

22 6. "Sanctuary policy" means a law, policy, practice, procedure,
23 or custom adopted or allowed by a state entity or local governmental
24 entity which prohibits or impedes a law enforcement agency from

1 complying with 8 U.S.C., Section 1373 or which prohibits or impedes
2 a law enforcement agency from communicating or cooperating with a
3 federal immigration agency so as to limit such law enforcement
4 agency in, or prohibit the agency from:

- 5 a. complying with an immigration detainer,
- 6 b. complying with a request from a federal immigration
7 agency to notify the agency before the release of an
8 inmate or detainee in the custody of the law
9 enforcement agency,
- 10 c. providing a federal immigration agency access to an
11 inmate for interview,
- 12 d. participating in any program or agreement authorized
13 under Section 287 of the Immigration and Nationality
14 Act, 8 U.S.C., Section 1357, or
- 15 e. providing a federal immigration agency with an
16 inmate's incarceration status or release date; and

17 7. "State entity" means the state or any office, board, bureau,
18 commission, department, branch, division, or institution thereof,
19 including institutions within the state University System.

20 C. A state entity, law enforcement agency, or local
21 governmental entity shall not adopt or have in effect a sanctuary
22 policy.

23 D. 1. A law enforcement agency shall use best efforts to
24 support the enforcement of federal immigration law. This subsection

1 applies to an official, representative, agent, or employee of the
2 entity or agency only when he or she is acting within the scope of
3 his or her official duties or within the scope of his or her
4 employment.

5 2. Except as otherwise expressly prohibited by federal law, a
6 state entity, local governmental entity, or law enforcement agency,
7 or an employee, an agent, or a representative of the entity or
8 agency, may not prohibit or in any way restrict a law enforcement
9 agency from taking any of the following actions with respect to
10 information regarding a person's immigration status:

- 11 a. sending the information to or requesting, receiving,
12 or reviewing the information from a federal
13 immigration agency for purposes of this chapter,
- 14 b. recording and maintaining the information for purposes
15 of this act,
- 16 c. exchanging the information with a federal immigration
17 agency or another state entity, local governmental
18 entity, or 136 law enforcement agency for purposes of
19 this act,
- 20 d. using the information to comply with an immigration
21 detainer, or
- 22 e. using the information to confirm the identity of a
23 person who is detained by a law enforcement agency.

24

1 3. a. For purposes of this subsection, the term "applicable
2 criminal case" means a criminal case in which:

3 (1) the judgment requires the defendant to be
4 confined in a secure correctional facility, and

5 (2) the judge:

6 (a) indicates in the record that the defendant
7 is subject to an immigration detainer, or

8 (b) otherwise indicates in the record that the
9 defendant is subject to a transfer into
10 federal custody.

11 b. In an applicable criminal case, when the judge
12 sentences a defendant who is the subject of an
13 immigration detainer to confinement, the judge shall
14 issue an order requiring the secure correctional
15 facility in which the defendant is to be confined to
16 reduce the defendant's sentence by a period of not
17 more than twelve (12) days on the facility's
18 determination that the reduction in sentence will
19 facilitate the seamless transfer of the defendant into
20 federal custody.

21 c. If the information specified in subdivision a of
22 division 2 of subparagraph a of this paragraph or
23 subdivision b of division 2 of subparagraph a of this
24 paragraph is not available at the time the sentence is

1 pronounced in the case, but is received by a law
2 enforcement agency afterwards, the law enforcement
3 agency shall notify the judge, who shall issue the
4 order provided for in subparagraph b of this paragraph
5 as soon as the information becomes available.

6 4. A state entity, local governmental entity, or law
7 enforcement agency that withholds information regarding the
8 immigration information of a victim of or witness to a criminal
9 offense pursuant to paragraph 8 of this subsection shall document
10 the victim's or witness's cooperation in the entity's or agency's
11 investigative records related to the offense and shall retain the
12 records for at least ten (10) years for the purpose of audit,
13 verification, or inspection by the Auditor General.

14 5. When a county correctional facility or the Department of
15 Corrections receives verification from a federal immigration agency
16 that a person subject to an immigration detainer is in the law
17 enforcement agency's custody, the agency may securely transport the
18 person to a federal facility in this state or to another point of
19 transfer to federal custody outside the jurisdiction of the law
20 enforcement agency. The law enforcement agency may transfer a
21 person who is subject to an immigration detainer and is confined in
22 a secure correctional facility to the custody of a federal
23 immigration agency not earlier than twelve (12) days before his or
24 her release date. A law enforcement agency shall obtain judicial

1 authorization before securely transporting an alien to a point of
2 transfer outside of this state.

3 6. This section does not require a state entity, local
4 governmental entity, or law enforcement agency to provide a federal
5 immigration agency with information related to a victim of or a
6 witness to a criminal offense if the victim or witness timely and in
7 good faith responds to the entity's or agency's request for
8 information and cooperation in the investigation or prosecution of
9 the offense.

10 7. This section does not authorize a law enforcement agency to
11 detain an alien unlawfully present in the United States pursuant to
12 an immigration detainer solely because the alien witnessed or
13 reported a crime or was a victim of a criminal offense.

14 8. This section does not apply to any alien unlawfully present
15 in the United States if he or she is or has been a necessary witness
16 or victim of a crime of domestic violence, rape, sexual
17 exploitation, sexual assault, murder, manslaughter, assault,
18 battery, human trafficking, kidnapping, false imprisonment,
19 involuntary servitude, fraud in foreign labor contracting,
20 blackmail, extortion, or witness tampering.

21 E. Each county correctional facility shall enter into an
22 agreement or agreements with a federal immigration agency for
23 temporarily housing persons who are the subject of immigration
24 detainers and for the payment of the costs of housing and detaining

1 such persons. A compliant agreement may include any contract
2 between a correctional facility and a federal immigration agency for
3 housing or detaining persons subject to immigration detainers, such
4 as basic ordering agreements in effect on or after July 1, 2019,
5 agreements authorized by Section 287 of the Immigration and
6 Nationality Act, 8 U.S.C., Section 1357, or successor agreements and
7 other similar agreements authorized by federal law.

8 F. 1. Any executive or administrative state, county, or
9 municipal officer who violates his or her duties under this chapter
10 may be subject to action by the Governor in the exercise of his or
11 her authority under the Oklahoma Constitution and state law. The
12 Governor may initiate judicial proceedings in the name of the state
13 against such officers to enforce compliance with any duty under this
14 chapter or restrain any unauthorized act contrary to this chapter.

15 2. In addition, the Attorney General may file suit against a
16 local governmental entity or local law enforcement agency in a court
17 of competent jurisdiction for declaratory or injunctive relief for a
18 violation of this chapter.

19 3. If a local governmental entity or local law enforcement
20 agency violates this chapter, the court must enjoin the unlawful
21 sanctuary policy. The court has continuing jurisdiction over the
22 parties and subject matter and may enforce its orders with the
23 initiation of contempt proceedings as provided by law.

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1 4. An order approving a consent decree or granting an
2 injunction must include written findings of fact that describe with
3 specificity the existence and nature of the sanctuary policy that
4 violates this chapter.

5 5. If the Governor finds that a local governmental entity or
6 local law enforcement agency has violated this chapter, the Governor
7 may suspend any state funding set to be distributed to that local
8 governmental entity or local law enforcement agency until a court
9 enjoins the unlawful sanctuary policy.

10 SECTION 2. This act shall become effective November 1, 2025.

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
12 March 4, 2025 - DO PASS

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