

Senate Judiciary Committee

Pete Mulvey 271-4063

SB 62, relative to law enforcement participation in a federal immigration program.

Hearing Date: January 23, 2025

Time Opened: 2:17 p.m.

Time Closed: 2:43 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent : Senator Carson

Bill Analysis: This bill provides that neither the state nor any county, municipality, or other political subdivision of this state shall prohibit or impede any state, county, or local law enforcement agency from applying for entry or entering into an agreement with the United States Immigration and Customs Enforcement to participate in a federal 287(g) program pursuant to 8 U.S.C. section 1357(g).

Sponsors:

Sen. Gannon

Sen. Lang

Sen. Avar

Sen. Carson

Sen. McGough

Sen. Murphy

Sen. Pearl

Sen. Sullivan

Sen. Birdsell

Rep. Bernardy

Rep. Khan

Rep. L. Walsh

Rep. Weyler

Who supports the bill: eight individuals supported SB 62. Contact peter.mulvey@gc.nh.gov for further detail.

Who opposes the bill: 126 individuals opposed SB 62. Contact peter.mulvey@gc.nh.gov for further detail

Who is neutral on the bill: N/A

Summary of testimony:

Senator Bill Gannon

Senate District 23

- SB 62 asserts that no municipality or political subdivision shall impede agreements made with the U.S Immigration and Customs Enforcement agency.
- Section 287 (g) of the Immigration and Nationality Act permits the deputization of state and local law enforcement assets to preform functions of federal immigration authorities.

- Sen. Gannon clarified that SB 62 did not compel local law enforcement to act as ICE. Rather, SB 62 simply prevented the municipality from prohibiting such an agreement under section 287 (g).
- SB 62 preserved local control by ensuring local police departments enter into agreements with federal law enforcement free of impedance from the local municipality or other political subdivisions.
- Illegal immigration was a crisis on both the southern and northern borders.
- Sen. Altschiller asked Sen. Gannon if any jurisdictions in New Hampshire adopted policies to impede ICE.
 - Sen. Gannon said Hanover and Lebanon had welcoming agreements, which stated that law enforcement officers may face penalties if they reported information to federal authorities.
- Sen. Altschiller clarified and asked if any subdivision had prevented section 287(g) agreements or efforts to pursue such.
 - Sen. Gannon expressed uncertainty as the program was relatively novel.
- Sen. Altschiller asked if there was a specific impetus or problem resolved via SB 13 given the understanding that no prohibitions on the relative agreements existed.
 - Sen. Gannon characterized SB 13 as a notice for agencies to apply for such an agreement if they choose.
- Sen. Altschiller asked if SB 13 provided a preemptive permission structure for local law enforcement agencies to engage in section 287(g) agreements.
 - Sen. Gannon confirmed, adding that awareness of the agreements and the option to enter them was scant.

Shari Rendall

Director, State and Local Engagement, Federation for American Immigration Reform

- Ms. Rendall provided background for section 287(g) of the immigration and nationality act.
- The provision was added in 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act. Section 287(g) was designed to have state and local law enforcement officers assist in enforcing and detecting immigration violations.
- Federal/State/Local cooperation is imperative to ICEs functioning as only half their staff is capable of pursuing apprehensions.
- Ms. Rendall referred to a 2022 ICE report highlighting the efficacy of 287(g) partnerships.
- There were two program models under 287(g).
- The northern border was virtually unprotected. There were 19,385 encounters across the Swanton Border Patrol Sector in the year 2024.
- Governor Sununu requested section 287(g) authority with ICE.
- SB 62 reinforced cooperation with law enforcement and was supported by FAIR.

Giles Bissonnette, esq.

Legal Director, ACLU NH

- Mr. Bissonnette opposed SB 62.
- If SB 62 provided enabling language, its necessity was hard to ascertain given the lack of preexisting preclusions.
- Mr. Bissonnette did not find legislation necessary to raise awareness. The State Police were evidently aware given the aforementioned request in previous testimony.
- The ACLU took issue with section 287(g) agreements and provided them to the committee in writing.

- SB 62 was not worded in a manner appropriate or consistent with other enabling statutes.
- Mr. Bissonnette suggested that a prohibition on interference is an implicit mandate.
- Mr. Bissonnette clarified that the New Hampshire – Canadian border is a small piece of the larger Swanton border patrol sector. New Hampshire’s encounter and apprehension figures are miniscule.

Grace Kindeke

Program Coordinator, American Friends Services Committee

- Ms. Kindeke opposed SB 62 on behalf of the Immigrants Rights Network.
- SB 62 would bar the governor from directing their own state police to not enter into such an agreement.
- Ms. Kindeke found local control to be jeopardized by SB 62, rather than enhanced.
- Selectboards and voters oversaw, balanced, and checked their public agencies and executives. Said boards and voters are stripped of such checks and balances by SB 62.
- Preventing towns from deciding for themselves whether they want to join 287(g) agreements or not was antithetical to the New Hampshire way of governance and administration.
- Ms. Kindeke suggested that section 287(g) agreements under SB 62 may constitute unfunded mandates.
- Sen. Altschiller asked Ms. Kindeke if a local selectboard, aldermanic board, council, or voters would have recourse in the event their local law enforcement agency entered such an agreement.
 - Ms. Kindeke believed the locality would have no recourse. No entity of any kind may impede or deny the agreements in question.

PM

Date Hearing Report completed: January 27, 2025