

HB 511-FN - VERSION ADOPTED BY BOTH BODIES

6Feb2025... 0079h

2025 SESSION

25-0594

09/11

HOUSE BILL

511-FN

AN ACT

relative to cooperation with federal immigration authorities.

SPONSORS:

Rep. Sweeney, Rock. 25; Rep. Berry, Hills. 44; Rep. McFarlane, Graf. 18; Rep. T. Walsh, Merr. 10; Sen. Abbas, Dist 22; Sen. Gannon, Dist 23

COMMITTEE:

Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill:

I. Requires law enforcement agencies to comply with immigration detainers of inmates if safe to do so and prohibits state and local government entities from adopting sanctuary policies to prohibit or impede the enforcement of federal immigration law.

II. Prohibits New Hampshire law enforcement agencies from investigating an inmate's citizenship status unless subsequent to an alleged violation of New Hampshire law or pursuant to an authorization by law.

III. Prohibits blanket policies against compliance with immigration detainers for inmates and prohibits any government entity or law enforcement agency from restricting the use and transmission of inmate immigration information used in compliance with the chapter.

IV. Provides exceptions for certain witnesses to or victims of crime.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to cooperation with federal immigration authorities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Anti-Sanctuary Act. Amend RSA by inserting after chapter 106-O the following
2 new chapter:

3 CHAPTER 106-P

4 ANTI-SANCTUARY ACT

5 106-P:1 Definitions. In this chapter:

6 I. "Federal immigration agency" means the United States Department of Justice and the
7 United States Department of Homeland Security, a division within such an agency, including United
8 States Immigration and Customs Enforcement and United States Customs and Border Protection,
9 any successor agency, and any other federal agency charged with the enforcement of immigration
10 law.

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

17 (a) The federal immigration agency's official form is complete and indicates on its face
18 that the federal immigration official has probable cause to believe that the person to be detained is a
19 removable alien under federal immigration law; or

20 (b) The federal immigration agency's official form is incomplete and fails to indicate on
21 its face that the federal immigration official has probable cause to believe that the person to be
22 detained is a removable alien under federal immigration law, but is supported by an affidavit, order,
23 or other official documentation that indicates that the federal immigration agency has probable
24 cause to believe that the person to be detained is a removable alien under federal immigration law;
25 and

26 (c) The federal immigration agency supplies with its detention request a Form I-200
27 Warrant for Arrest of Alien or a Form I- 205 Warrant of Removal/Deportation or a successor warrant
28 or other warrant authorized by federal law.

29 III. "Inmate" means a person in the custody of a law enforcement agency.

30 IV. "Law enforcement agency" means an agency in this state charged with enforcement of
31 state, county, municipal, or federal laws or with managing custody of detained persons in this state

1 and includes municipal police departments, sheriff's offices, state police departments, state
2 university and college police departments, county correctional agencies, and the department of
3 corrections.

4 V. "Local governmental entity" means any county, municipality, or other political
5 subdivision of this state.

6 VI. "Sanctuary policy" means a law, policy, practice, procedure, or custom adopted or
7 allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement
8 agency from complying with 8 U.S.C. section 1373 or which prohibits or impedes a law enforcement
9 agency from communicating or cooperating with a federal immigration agency so as to limit such law
10 enforcement agency in, or prohibit the agency from:

11 (a) Complying with an immigration detainer;

12 (b) Complying with a request from a federal immigration agency to notify the agency
13 before the release of an inmate or detainee in the custody of the law enforcement agency;

14 (c) Providing a federal immigration agency access to an inmate for interview;

15 (d) Participating in any program or agreement authorized under section 287 of the
16 Immigration and Nationality Act, 8 U.S.C. section 1357; or

17 (e) Providing a federal immigration agency with an inmate's incarceration status or
18 release date.

19 VII. "State entity" means any county, city, municipality, town, village, village district,
20 special district, or other political subdivision of this state, including law enforcement agencies. The
21 term shall include officials, officers, representatives, agents, and employees.

22 106-P:2 Prohibition of Sanctuary Policies.

23 No state government entity, local government entity, or law enforcement agency shall knowingly
24 enact, issue, adopt, promulgate, enforce, permit, endorse, maintain, or have in effect any sanctuary
25 policy.

26 106-P:3 Cooperation with Federal Immigration Authorities.

27 I. A law enforcement agency shall to the extent possible and their ability to safely do so,
28 comply with immigration detainers for an inmate discovered during the investigation of a violation
29 of New Hampshire law. Unless otherwise authorized by law, no New Hampshire law enforcement
30 agency shall investigate or take part in investigations related to an inmate's citizenship status,
31 unless it is subsequent to an alleged violation of New Hampshire law. No agency shall have an
32 explicit or implied blanket policy against honoring immigration detainers for inmates. Any agency
33 refusing to honor an immigration detainer for an inmate shall report each such refusal to the
34 attorney general in a time, form, and manner to be prescribed by him or his designee.

35 II. Except as otherwise expressly prohibited by federal law, a state entity, local
36 governmental entity, or law enforcement agency, or an employee, an agent, or a representative of the

1 entity or agency, may not prohibit or in any way restrict a law enforcement agency from taking any
2 of the following actions with respect to information regarding an inmate's immigration status:

3 (a) Sending the information to or requesting, receiving, or reviewing the information
4 from a federal immigration agency for the purposes of this chapter.

5 (b) Recording and maintaining the information for purposes of this chapter.

6 (c) Exchanging the information with a federal immigration agency or another state
7 entity, local governmental entity, or law enforcement agency for purposes of this chapter.

8 (d) Using the information to comply with an immigration detainer.

9 (e) Using the information to confirm the identity of a person who is detained by a law
10 enforcement agency.

11 III. This section does not apply to any alien unlawfully present in the United States if he or
12 she is or has been a necessary witness or victim of a crime of domestic violence, rape, sexual
13 exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping,
14 false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion,
15 or witness tampering, unless an immigration detainer is on file for the person and the nature of the
16 reason for the detainer is that the person is wanted for involvement in a similar crime to those
17 listed, or the person is wanted for reasons related to terrorism, or the person is noted as being
18 dangerous on the detainer, or the totality of the circumstances would lead a reasonable officer to
19 conclude that the person's release would put the public in danger. In any such case, the agency shall
20 work with the federal immigration authorities to help ensure the availability of the person to
21 participate in the prosecution of the state crime.

22 106-P:4 Enforcement.

23 I. Any executive or administrative state, county, or municipal officer who violates his or her
24 duties under this chapter may be subject to action by the attorney general, who may file suit against
25 a local governmental entity or local law enforcement agency in a court of competent jurisdiction for
26 declaratory or injunctive relief for a violation of this chapter.

27 II. If a local governmental entity or local law enforcement agency violates this chapter, the
28 court shall enjoin the unlawful sanctuary policy. The court has continuing jurisdiction over the
29 parties and subject matter and may enforce its orders with the initiation of contempt proceedings as
30 provided by law.

31 III. An order approving a consent decree or granting an injunction shall include written
32 findings of fact that describe with specificity the existence and nature of the sanctuary policy that
33 violates this chapter.

34 2 Effective Date. This act shall take effect January 1, 2026.

**HB 511-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-0079h)**

AN ACT relative to cooperation with federal immigration authorities.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Indeterminable		
<i>Funding Source(s)</i>	General Fund and Highway Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable		

METHODOLOGY:

This bill requires law enforcement agencies to comply with immigration detainers of inmates if safe to do so and prohibits state and local government entities from adopting sanctuary policies to prohibit or impede the enforcement of federal immigration law. The bill prohibits New Hampshire law enforcement agencies from investigating an inmate's citizenship status unless subsequent to an alleged violation of New Hampshire law or pursuant to an authorization by law. The bill also prohibits blanket policies against compliance with immigration detainers for inmates and prohibits any government entity or law enforcement agency from restricting the use and transmission of inmate immigration information used in compliance with the chapter. In addition the bill provides exceptions for certain witnesses to or victims of crime.

The Department of Justice states any fiscal impact would be proportional to the number of enforcement actions brought and the corresponding personnel and litigation costs associated with each action. The number of potential enforcement actions that would result from the

enactment of this bill is unknown, therefore, the impact on the Department's budget is indeterminable. The Department states a small number of enforcement actions may be absorbed by the present staffing levels and litigation budget, however, if this bill results in a significant number of enforcement actions, the Department will require an additional attorney in the Bureau of Civil Law and an increase in the Department's litigation budget (up to \$100,000). The Department states the cost of an unclassified assistant attorney general position is approximately \$132,000 per year.

The Department of Safety, Division of State Police indicates some indeterminable number of persons arrested and in the custody of State Troopers will be found to be subject to federal detainers. The three means by which Troopers then break contact with arrested persons include release on summons, release on bail, or lodging in a correctional facility pending bail or trial. The existence of a federal detainer would require either lodging such person in a correctional facility or transfer directly into the custody of some federal partner, likely (but not always) expanding the time spent in such cases by Troopers, as compared with release on bail or release on summons. Some persons taken into custody will be lodged in a correctional facility strictly on the basis of the offense committed, unrelated to the existence or lack of a federal detainer. If the bill is read less strictly and the term inmate could include person detained on a car stop or in the midst of an investigation for a call for service is "in the custody of" our Troopers.

The Judicial Branch states it is not possible to estimate how this change in law would impact the number of filings in the courts. Because the bill creates a new enforcement action, it is expected that litigation could increase.

The New Hampshire Municipal Association states there may be an indeterminable increase local expenditures if additional local law enforcement resources are needed to comply with the statute.

AGENCIES CONTACTED:

Departments of Safety and Justice, Judicial Branch and New Hampshire Municipal Association