

Amendment to HB 511-FN

1 Amend the bill by replacing section 1 with the following:

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3 1 New Chapter; Anti-Sanctuary Act. Amend RSA by inserting after chapter 106-O the following
4 new chapter:

5

CHAPTER 106-P

6

ANTI-SANCTUARY ACT

7

106-P:1 Definitions. In this chapter:

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

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15 II. "Immigration detainer" means a facially sufficient written or electronic request issued by
16 a federal immigration agency using that agency's official form to request that another law
17 enforcement agency detain a person based on probable cause to believe that the person to be
18 detained is a removable alien under federal immigration law, including detainers issued pursuant to
19 8 U.S.C. sections 1226 and 1357 along with a warrant described in subparagraph (c). For the
20 purpose of this section, an immigration detainer shall be deemed facially sufficient if:

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

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26 (b) The federal immigration agency's official form is incomplete and fails to indicate on
27 its face that the federal immigration official has probable cause to believe that the person to be
28 detained is a removable alien under federal immigration law, but is supported by an affidavit, order,
29 or other official documentation that indicates that the federal immigration agency has probable
30 cause to believe that the person to be detained is a removable alien under federal immigration law;
31 and

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

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

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1 IV. "Law enforcement agency" means an agency in this state charged with enforcement of
2 state, county, municipal, or federal laws or with managing custody of detained persons in this state
3 and includes municipal police departments, sheriff's offices, state police departments, state
4 university and college police departments, county correctional agencies, and the department of
5 corrections.

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

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

13 (a) Complying with an immigration detainer;

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

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

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

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

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

24 106-P:2 Prohibition of Sanctuary Policies.

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

28 106-P:3 Cooperation with Federal Immigration Authorities.

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

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1 II. Except as otherwise expressly prohibited by federal law, a state entity, local
2 governmental entity, or law enforcement agency, or an employee, an agent, or a representative of the
3 entity or agency, may not prohibit or in any way restrict a law enforcement agency from taking any
4 of the following actions with respect to information regarding an inmate's immigration status:

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

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

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

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

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

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

24 106-P:4 Enforcement.

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

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

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

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2025-0079h

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.