

118TH CONGRESS  
1ST SESSION

# H. R. 4684

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to expand the prohibition on State noncompliance with enforcement of the immigration laws.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2023

Mr. KILEY (for himself and Mr. McCLINTOCK) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to expand the prohibition on State noncompliance with enforcement of the immigration laws.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Sanctuary for  
5 Criminals Act of 2023”.

6 **SEC. 2. PURPOSE.**

7 Given the continuing escalation of drug overdose  
8 deaths across the U.S., a large portion of which is attrib-

1 uted to the most deadly opioid, fentanyl or fentanyl ana-  
2 logues, it is the will of Congress that law enforcement and  
3 other supportive services for aliens in sanctuary cities be  
4 required to fully cooperate with the Departments of Jus-  
5 tice and Homeland Security to stem the flow of illegal  
6 drugs flowing into our States and cities.

7 **SEC. 3. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**  
8 **IMMIGRATION LAW.**

9 (a) IN GENERAL.—Section 642 of the Illegal Immi-  
10 gration Reform and Immigrant Responsibility Act of 1996  
11 (8 U.S.C. 1373) is amended—

12 (1) by striking subsection (a) and inserting the  
13 following:

14 “(a) IN GENERAL.—Notwithstanding any other pro-  
15 vision of Federal, State, or local law, no Federal, State,  
16 or local government entity, and no individual, may prohibit  
17 or in any way restrict, a Federal, State, or local govern-  
18 ment entity, official, or other personnel from complying  
19 with the immigration laws (as defined in section  
20 101(a)(17) of the Immigration and Nationality Act (8  
21 U.S.C. 1101(a)(17))), or from assisting or cooperating  
22 with Federal law enforcement entities, officials, or other  
23 personnel regarding the enforcement of these laws.”;

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

1       “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-  
2 standing any other provision of Federal, State, or local  
3 law, no Federal, State, or local government entity, and no  
4 individual, may prohibit, or in any way restrict, a Federal,  
5 State, or local government entity, official, or other per-  
6 sonnel from undertaking any of the following law enforce-  
7 ment activities as they relate to information regarding the  
8 citizenship or immigration status, lawful or unlawful, the  
9 inadmissibility or deportability, or the custody status, of  
10 any individual:

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

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

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

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

24               (4) by adding at the end the following:

25       “(d) COMPLIANCE.—

1           “(1) TRANSFER OF CUSTODY OF ALIENS PEND-  
2           ING REMOVAL PROCEEDINGS.—The Secretary, at the  
3           Secretary’s discretion, may decline to transfer an  
4           alien in the custody of the Department of Homeland  
5           Security to a State or political subdivision of a State  
6           found not to be in compliance with subsection (a) or  
7           (b), regardless of whether the State or political sub-  
8           division of the State has issued a writ or warrant.

9           “(2) TRANSFER OF CUSTODY OF CERTAIN  
10          ALIENS PROHIBITED.—The Secretary shall not  
11          transfer an alien with a final order of removal pur-  
12          suant to paragraph (1)(A) or (5) of section 241(a)  
13          of the Immigration and Nationality Act (8 U.S.C.  
14          1231(a)) to a State or a political subdivision of a  
15          State that is found not to be in compliance with sub-  
16          section (a) or (b).

17          “(3) ANNUAL DETERMINATION.—The Secretary  
18          shall determine for each calendar year which States  
19          or political subdivision of States are not in compli-  
20          ance with subsection (a) or (b) and shall report such  
21          determinations to Congress by March 1 of each suc-  
22          ceeding calendar year.

23          “(4) REPORTS.—The Secretary of Homeland  
24          Security shall issue a report concerning the compli-  
25          ance with subsections (a) and (b) of any particular

1 State or political subdivision of a State at the re-  
2 quest of the House or the Senate Judiciary Com-  
3 mittee.

4 “(e) CONSTRUCTION.—Nothing in this section shall  
5 require law enforcement officials from States, or from po-  
6 litical subdivisions of States, to report or arrest victims  
7 or witnesses of a criminal offense.”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect on the date of the enactment  
10 of this Act, except that subsection (d) of section 642 of  
11 the Illegal Immigration Reform and Immigrant Responsi-  
12 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-  
13 tion, shall apply only to prohibited acts committed on or  
14 after the date of the enactment of this Act.

15 **SEC. 4. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

16 (a) IN GENERAL.—Section 287(d) of the Immigra-  
17 tion and Nationality Act (8 U.S.C. 1357(d)) is amended  
18 to read as follows:

19 “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE  
20 ALIENS.—

21 “(1) IN GENERAL.—In the case of an individual  
22 who is arrested by any Federal, State, or local law  
23 enforcement official or other personnel for the al-  
24 leged violation of any criminal or motor vehicle law,  
25 the Secretary may issue a detainer regarding the in-

1       dividual to any Federal, State, or local law enforce-  
2       ment entity, official, or other personnel if the Sec-  
3       retary has probable cause to believe that the indi-  
4       vidual is an inadmissible or deportable alien.

5               “(2) PROBABLE CAUSE.—Probable cause is  
6       deemed to be established if—

7               “(A) the individual who is the subject of  
8       the detainer matches, pursuant to biometric  
9       confirmation or other Federal database records,  
10      the identity of an alien who the Secretary has  
11      reasonable grounds to believe to be inadmissible  
12      or deportable;

13              “(B) the individual who is the subject of  
14      the detainer is the subject of ongoing removal  
15      proceedings, including matters where a charg-  
16      ing document has already been served;

17              “(C) the individual who is the subject of  
18      the detainer has previously been ordered re-  
19      moved from the United States and such an  
20      order is administratively final;

21              “(D) the individual who is the subject of  
22      the detainer has made voluntary statements or  
23      provided reliable evidence that indicate that  
24      they are an inadmissible or deportable alien; or

1           “(E) the Secretary otherwise has reason-  
2           able grounds to believe that the individual who  
3           is the subject of the detainer is an inadmissible  
4           or deportable alien.

5           “(3) TRANSFER OF CUSTODY.—If the Federal,  
6           State, or local law enforcement entity, official, or  
7           other personnel to whom a detainer is issued com-  
8           plies with the detainer and detains for purposes of  
9           transfer of custody to the Department of Homeland  
10          Security the individual who is the subject of the de-  
11          tainer, the Department may take custody of the in-  
12          dividual within 48 hours (excluding weekends and  
13          holidays), but in no instance more than 96 hours,  
14          following the date that the individual is otherwise to  
15          be released from the custody of the relevant Federal,  
16          State, or local law enforcement entity.”.

17          (b) IMMUNITY.—

18                 (1) IN GENERAL.—A State or a political sub-  
19                 division of a State (and the officials and personnel  
20                 of the State or subdivision acting in their official ca-  
21                 pacities), and a nongovernmental entity (and its per-  
22                 sonnel) contracted by the State or political subdivi-  
23                 sion for the purpose of providing detention, acting in  
24                 compliance with a Department of Homeland Secu-  
25                 rity detainer issued pursuant to this section who

1 temporarily holds an alien in its custody pursuant to  
2 the terms of a detainer so that the alien may be  
3 taken into the custody of the Department of Home-  
4 land Security, shall be considered to be acting under  
5 color of Federal authority for purposes of deter-  
6 mining their liability and shall be held harmless for  
7 their compliance with the detainer in any suit seek-  
8 ing any punitive, compensatory, or other monetary  
9 damages.

10 (2) FEDERAL GOVERNMENT AS DEFENDANT.—

11 In any civil action arising out of the compliance with  
12 a Department of Homeland Security detainer by a  
13 State or a political subdivision of a State (and the  
14 officials and personnel of the State or subdivision  
15 acting in their official capacities), or a nongovern-  
16 mental entity (and its personnel) contracted by the  
17 State or political subdivision for the purpose of pro-  
18 viding detention, the United States Government  
19 shall be the proper party named as the defendant in  
20 the suit in regard to the detention resulting from  
21 compliance with the detainer.

22 (3) BAD FAITH EXCEPTION.—Paragraphs (1)

23 and (2) shall not apply to any mistreatment of an  
24 individual by a State or a political subdivision of a  
25 State (and the officials and personnel of the State



1 or subdivision acting in their official capacities), or  
2 a nongovernmental entity (and its personnel) con-  
3 tracted by the State or political subdivision for the  
4 purpose of providing detention.

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