H. R. 3003

AN ACT

To amend the Immigration and Nationality Act to modify provisions relating to assistance by States, and political subdivision of States, in the enforcement of Federal immigration laws, and for other purposes.

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

This Act may be cited as the “No Sanctuary for Criminals Act”.

SEC. 2. STATE NONCOMPLIANCE WITH ENFORCEMENT OF IMMIGRATION LAW.

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

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

“(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit or in any way restrict, a Federal, State, or local government entity, official, or other personnel from complying with the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), or from assisting or cooperating with Federal law enforcement entities, officials, or other personnel regarding the enforcement of these laws.”;

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

“(b) LAW ENFORCEMENT ACTIVITIES.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit, or in any way restrict, a Federal,
State, or local government entity, official, or other personnel from undertaking any of the following law enforcement activities as they relate to information regarding the citizenship or immigration status, lawful or unlawful, the inadmissibility or deportability, or the custody status, of any individual:

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

“(2) Notifying the Federal Government regarding the presence of individuals who are encountered by law enforcement officials or other personnel of a State or political subdivision of a State.

“(3) Complying with requests for such information from Federal law enforcement entities, officials, or other personnel.”;

(3) in subsection (c), by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”; and

(4) by adding at the end the following:

“(d) COMPLIANCE.—

“(1) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—A State, or a political subdivision of a State, that is found not to be in compliance with subsection (a) or (b) shall not be eligible to receive—
“(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), the ‘Cops on the Beat’ program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.); or

“(B) any other grant administered by the Department of Justice or the Department of Homeland Security that is substantially related to law enforcement, terrorism, national security, immigration, or naturalization.

“(2) Transfer of custody of aliens pending removal proceedings.—The Secretary, at the Secretary’s discretion, may decline to transfer an alien in the custody of the Department of Homeland Security to a State or political subdivision of a State found not to be in compliance with subsection (a) or (b), regardless of whether the State or political subdivision of the State has issued a writ or warrant.
“(3) Transfer of custody of certain
aliens prohibited.—The Secretary shall not
transfer an alien with a final order of removal pur-
suant to paragraph (1)(A) or (5) of section 241(a)
of the Immigration and Nationality Act (8 U.S.C.
1231(a)) to a State or a political subdivision of a
State that is found not to be in compliance with sub-
section (a) or (b).

“(4) Annual determination.—The Secretary
shall determine for each calendar year which States
or political subdivision of States are not in compli-
ance with subsection (a) or (b) and shall report such
determinations to Congress by March 1 of each suc-
ceeding calendar year.

“(5) Reports.—The Secretary of Homeland
Security shall issue a report concerning the compli-
ance with subsections (a) and (b) of any particular
State or political subdivision of a State at the re-
quest of the House or the Senate Judiciary Com-
mittee. Any jurisdiction that is found not to be in
compliance shall be ineligible to receive Federal fi-
nancial assistance as provided in paragraph (1) for
a minimum period of 1 year, and shall only become
eligible again after the Secretary of Homeland Secu-
rity certifies that the jurisdiction has come into com-
pliance.

“(6) REALLOCATION.—Any funds that are not
allocated to a State or to a political subdivision of
a State due to the failure of the State or of the po-
litical subdivision of the State to comply with sub-
section (a) or (b) shall be reallocated to States or to
political subdivisions of States that comply with both
such subsections.

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

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

SEC. 3. CLARIFYING THE AUTHORITY OF ICE DETAINERS.

(a) IN GENERAL.—Section 287(d) of the Immigra-
tion and Nationality Act (8 U.S.C. 1357(d)) is amended
to read as follows:
“(d) Detainer of Inadmissible or Deportable Aliens.—

“(1) In General.—In the case of an individual who is arrested by any Federal, State, or local law enforcement official or other personnel for the alleged violation of any criminal or motor vehicle law, the Secretary may issue a detainer regarding the individual to any Federal, State, or local law enforcement entity, official, or other personnel if the Secretary has probable cause to believe that the individual is an inadmissible or deportable alien.

“(2) Probable Cause.—Probable cause is deemed to be established if—

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

“(B) the individual who is the subject of the detainer is the subject of ongoing removal proceedings, including matters where a charging document has already been served;

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

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

“(E) the Secretary otherwise has reasonable grounds to believe that the individual who is the subject of the detainer is an inadmissible or deportable alien.

“(3) TRANSFER OF CUSTODY.—If the Federal, State, or local law enforcement entity, official, or other personnel to whom a detainer is issued complies with the detainer and detains for purposes of transfer of custody to the Department of Homeland Security the individual who is the subject of the detainer, the Department may take custody of the individual within 48 hours (excluding weekends and holidays), but in no instance more than 96 hours, following the date that the individual is otherwise to be released from the custody of the relevant Federal, State, or local law enforcement entity.”.

(b) IMMUNITY.—

(1) IN GENERAL.—A State or a political subdivision of a State (and the officials and personnel
of the State or subdivision acting in their official capacities), and a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, acting in compliance with a Department of Homeland Security detainer issued pursuant to this section who temporarily holds an alien in its custody pursuant to the terms of a detainer so that the alien may be taken into the custody of the Department of Homeland Security, shall be considered to be acting under color of Federal authority for purposes of determining their liability and shall be held harmless for their compliance with the detainer in any suit seeking any punitive, compensatory, or other monetary damages.

(2) **FEDERAL GOVERNMENT AS DEFENDANT.**— In any civil action arising out of the compliance with a Department of Homeland Security detainer by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, the United States Government shall be the proper party named as the defendant in
the suit in regard to the detention resulting from compliance with the detainer.

(3) BAD FAITH EXCEPTION.—Paragraphs (1) and (2) shall not apply to any mistreatment of an individual by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention.

(c) PRIVATE RIGHT OF ACTION.—

(1) CAUSE OF ACTION.—Any individual, or a spouse, parent, or child of that individual (if the individual is deceased), who is the victim of a murder, rape, or any felony, as defined by the State, for which an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) has been convicted and sentenced to a term of imprisonment of at least 1 year, may bring an action against a State or political subdivision of a State in the appropriate Federal or State court if the State or political subdivision released the alien from custody prior to the commission of such crime as a consequence of the State or political subdivision’s declining to honor a detainer issued pursuant
to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)).

(2) LIMITATION ON BRINGING ACTION.—An action brought under this subsection may not be brought later than 10 years following the occurrence of the crime, or death of a person as a result of such crime, whichever occurs later.

(3) ATTORNEY’S FEE AND OTHER COSTS.—In any action or proceeding under this subsection the court shall allow a prevailing plaintiff a reasonable attorneys’ fee as part of the costs, and include expert fees as part of the attorneys’ fee.

SEC. 4. SARAH AND GRANT’S LAW.

(a) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENTS.—(A) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by striking “Attorney General” each place it appears (except in the second place that term appears in section 236(a)) and inserting “Secretary of Homeland Security”.

(B) Section 236(a) of such Act (8 U.S.C. 1226(a)) is amended by inserting “the Secretary of Homeland Security or” before “the Attorney General—”. 
(C) Section 236(e) of such Act (8 U.S.C. 1226(e)) is amended by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”.

(2) LENGTH OF DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

“(f) LENGTH OF DETENTION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, an alien may be detained, and for an alien described in subsection (c) shall be detained, under this section without time limitation, except as provided in subsection (h), during the pendency of removal proceedings.

“(2) CONSTRUCTION.—The length of detention under this section shall not affect detention under section 241.”.

(3) DETENTION OF CRIMINAL ALIENS.—Section 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is amended—

(A) in subparagraph (C), by striking “or” at the end;

(B) by inserting after subparagraph (D) the following:
“(E) is unlawfully present in the United States and has been convicted for driving while intoxicated (including a conviction for driving while under the influence or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under State law, or

“(F)(i)(I) is inadmissible under section 212(a)(6)(i),

“(II) is deportable by reason of a visa revocation under section 221(i), or

“(III) is deportable under section 237(a)(1)(C)(i), and

“(ii) has been arrested or charged with a particularly serious crime or a crime resulting in the death or serious bodily injury (as defined in section 1365(h)(3) of title 18, United States Code) of another person;”; and

(C) by amending the matter following subparagraph (F) (as added by subparagraph (B) of this paragraph) to read as follows:

“any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph; to whether the alien is released on parole, su-
pervised release, or probation; or to whether the alien may be arrested or imprisoned again for the same offense. If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary, then when the alien is brought to the attention of the Secretary or when the Secretary determines it is practical to take such alien into custody, the Secretary shall take such alien into custody.”.

(4) ADMINISTRATIVE REVIEW.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as amended by paragraph (2), is further amended by adding at the end the following:

“(g) ADMINISTRATIVE REVIEW.—The Attorney General’s review of the Secretary’s custody determinations under subsection (a) for the following classes of aliens shall be limited to whether the alien may be detained, released on bond (of at least $1,500 with security approved by the Secretary), or released with no bond:

“(1) Aliens in exclusion proceedings.

“(2) Aliens described in section 212(a)(3) or 237(a)(4).

“(3) Aliens described in subsection (e).

“(h) RELEASE ON BOND.—
“(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. No bond may be granted except to an alien who establishes by clear and convincing evidence that the alien is not a flight risk or a danger to another person or the community.

“(2) CERTAIN ALIENS INELIGIBLE.—No alien detained under subsection (c) may seek release on bond.”.

(5) CLERICAL AMENDMENTS.—(A) Section 236(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)(B)) is amended by striking “conditional parole” and inserting “recognizance”.

(B) Section 236(b) of such Act (8 U.S.C. 1226(b)) is amended by striking “parole” and inserting “recognizance”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any alien in detention under the provisions of section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as so amended, or
otherwise subject to the provisions of such section, on or after such date.

Passed the House of Representatives June 29, 2017.

Attest:

Clerk.
AN ACT

To amend the Immigration and Nationality Act to modify provisions relating to assistance by States, and political subdivision of States, in the enforcement of Federal immigration laws, and for other purposes.

For other purposes.

115TH CONGRESS
1ST SESSION
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