

Senate File 481 - Enrolled

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AN ACT

RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS AND PROVIDING
PENALTIES AND REMEDIES, INCLUDING THE DENIAL OF STATE FUNDS
TO CERTAIN ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 825.1 Definitions.

1. "*Immigration detainer request*" means a written federal government request to a local entity to maintain temporary custody of an alien, including a United States department of homeland security form I-247 or a similar or successor form. "*Immigration detainer request*" includes only written federal government requests that are accompanied by any of the following properly completed forms or similar or successor forms, if such forms or similar or successor forms are signed by an authorized United States immigration and customs enforcement officer:

- a. United States department of homeland security form I-200.
- b. United States department of homeland security form I-205.

2. "*Immigration law*" means a law of this state or a federal law relating to aliens, immigrants, or immigration, including but not limited to the federal Immigration and Nationality Act, 8 U.S.C. §1101 et seq.

3. "*Lawful detention*" means the detention of a person by a local entity for the investigation of a public offense. "*Lawful detention*" excludes a detention if the sole reason for the

detention is that a person is a victim of or witness to a public offense or is reporting a public offense.

4. "*Local entity*" means the governing body of a city or county. "*Local entity*" includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney.

5. "*Policy*" includes a formal, written rule, policy, procedure, regulation, order, ordinance, motion, resolution, or amendment and an informal, unwritten policy.

6. "*Public offense*" excludes a moving traffic violation under chapter 321.

Sec. 2. NEW SECTION. 825.2 Law enforcement agency duties — immigration detainer requests.

A law enforcement agency in this state that has custody of a person subject to an immigration detainer request issued by United States immigration and customs enforcement shall fully comply with any instruction made in the detainer request and in any other legal document provided by a federal agency.

Sec. 3. NEW SECTION. 825.3 Completion of sentence in federal custody.

1. The court, in a criminal proceeding in this state in which the sentence requires a defendant who is the subject of an immigration detainer request to be confined in a correctional facility, shall issue an order at the time of sentencing requiring the correctional facility in which the defendant is to be confined and all appropriate government officers to require the defendant to be transferred to serve in federal custody the final portion of the defendant's sentence, not to exceed a period of seven days, if a facility or officer determines that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody. The court in a criminal proceeding in this state shall retain jurisdiction to issue such an order at a later date if the court receives notice from a federal agency that a defendant was the subject of an immigration detainer request at the time of sentencing. The court shall issue such an order as soon as practicable after receiving such notice.

2. In the absence of an order issued under this section,

a facility or officer acting under exigent circumstances may perform such a transfer after making a determination that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody.

3. A defendant shall be transferred pursuant to this section only if appropriate officers of the federal government consent to the transfer of a defendant into federal custody under the circumstances described in this section.

Sec. 4. NEW SECTION. 825.4 Restriction on enforcement of immigration law prohibited.

1. A local entity shall not adopt or enforce a policy or take any other action under which the local entity prohibits or discourages the enforcement of immigration laws.

2. A local entity shall not prohibit or discourage a person who is a law enforcement officer, corrections officer, county attorney, city attorney, or other official who is employed by or otherwise under the direction or control of the local entity from doing any of the following:

a. Inquiring about the immigration status of a person under a lawful detention or under arrest.

b. Doing any of the following with respect to information relating to the immigration status, lawful or unlawful, of any person under a lawful detention or under arrest, including information regarding the person's place of birth:

(1) Sending the information to or requesting or receiving the information from United States citizenship and immigration services, United States immigration and customs enforcement, or another relevant federal agency.

(2) Maintaining the information.

(3) Exchanging the information with another local entity or a federal or state governmental entity.

c. Assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance.

d. Permitting a federal immigration officer to enter and conduct enforcement activities at a jail or other detention facility to enforce a federal immigration law.

Sec. 5. NEW SECTION. 825.5 Written policies.

No later than January 1, 2019, each state or local law

enforcement agency subject to this chapter shall do all of the following:

1. Formalize in writing any unwritten, informal policies relating to the enforcement of immigration laws.
2. Update the agency's policies to be consistent with this chapter, to require each officer or other employee of the law enforcement agency to fully comply with this chapter, and to prohibit an officer or other employee of the law enforcement agency from preventing law enforcement agency personnel from fully complying with this chapter.

Sec. 6. NEW SECTION. 825.6 Discrimination prohibited.

A local entity or a person employed by or otherwise under the direction or control of a local entity shall not consider race, skin color, language spoken, or national origin while enforcing immigration laws except to the extent permitted by the Constitution of the United States or the Constitution of the State of Iowa.

Sec. 7. NEW SECTION. 825.7 Victim of or witness to a crime — limitation on collection of information.

A local entity or a person employed by or otherwise under the direction or control of a local entity shall not ask for or collect any information from a victim of or witness to an alleged public offense or from a person reporting an alleged public offense, including the victim's, witness's, or person's national origin, that is not pertinent to the investigation of the alleged public offense.

Sec. 8. NEW SECTION. 825.8 Complaints — notification — civil action.

1. Any person, including a federal agency, may file a complaint with the attorney general alleging that a local entity has violated or is violating this chapter if the person offers evidence to support such an allegation. The person shall include with the complaint any evidence the person has in support of the complaint.

2. A local entity for which the attorney general has received a complaint pursuant to this section shall comply with any document requests, including a request for supporting documents, from the attorney general relating to the complaint.

3. A complaint filed pursuant to subsection 1 shall not be

valid unless the attorney general determines that a violation of this chapter by a local entity was intentional.

4. If the attorney general determines that a complaint filed pursuant to this section against a local entity is valid, the attorney general, not later than ten days after the date of such a determination, shall provide written notification to the local entity by certified mail, with return receipt requested, stating all of the following:

a. A complaint pursuant to this section has been filed and the grounds for the complaint.

b. The attorney general has determined that the complaint is valid.

c. The attorney general is authorized to file a civil action in district court pursuant to subsection 6 to enjoin a violation of this chapter no later than forty days after the date on which the notification is received if the local entity does not come into compliance with the requirements of this chapter.

d. The local entity and any entity that is under the jurisdiction of the local entity will be denied state funds pursuant to section 825.9 for the state fiscal year following the year in which a final judicial determination in a civil action brought under this section is made.

5. No later than thirty days after the date on which a local entity receives written notification under subsection 4, the local entity shall provide the attorney general with all of the following:

a. Copies of all of the local entity's written policies relating to immigration enforcement actions.

b. A copy of each immigration detainer request received by the local entity from a federal agency.

c. A copy of each response sent by the local entity to an immigration detainer request described by paragraph "b".

d. A description of all actions the local entity has taken or will take to correct any violations of this chapter.

e. If applicable, any evidence that would refute the allegations made in the complaint.

6. No later than forty days after the date on which the notification pursuant to subsection 4 is received, the attorney

general shall file a civil action in district court to enjoin any ongoing violation of this chapter by a local entity.

Sec. 9. NEW SECTION. 825.9 Denial of state funds.

1. Notwithstanding any other provision of law to the contrary, a local entity, including any entity under the jurisdiction of the local entity, shall be ineligible to receive any state funds if the local entity intentionally violates this chapter.

2. State funds shall be denied to a local entity pursuant to subsection 1 by all state agencies for each state fiscal year that begins after the date on which a final judicial determination that the local entity has intentionally violated this chapter is made in a civil action brought pursuant to section 825.8, subsection 6. State funds shall continue to be denied until eligibility to receive state funds is reinstated under section 825.10. However, any state funds for the provision of wearable body protective gear used for law enforcement purposes shall not be denied under this section.

3. The department of management shall adopt rules pursuant to chapter 17A to implement this section and section 825.10 uniformly across state agencies from which state funds are distributed to local entities.

Sec. 10. NEW SECTION. 825.10 Reinstatement of eligibility to receive state funds.

1. Except as provided by subsection 5, no earlier than ninety days after the date of a final judicial determination that a local entity has intentionally violated the provisions of this chapter, the local entity may petition the district court that heard the civil action brought pursuant to section 825.8, subsection 6, to seek a declaratory judgment that the local entity is in full compliance with this chapter.

2. A local entity that petitions the court as described by subsection 1 shall comply with any document requests, including a request for supporting documents, from the attorney general relating to the action.

3. If the court issues a declaratory judgment declaring that the local entity is in full compliance with this chapter, the local entity's eligibility to receive state funds is reinstated

beginning on the first day of the month following the date on which the declaratory judgment is issued.

4. A local entity shall not petition the court as described in subsection 1 more than twice in one twelve-month period.

5. A local entity may petition the court as described in subsection 1 before the date provided in subsection 1 if the person who was the director or other chief officer of the local entity at the time of the violation of this chapter is subsequently removed from or otherwise leaves office.

6. A party shall not be entitled to recover any attorney fees in a civil action described by subsection 1.

Sec. 11. NEW SECTION. 825.11 Attorney general database.

The attorney general shall develop and maintain a searchable database listing each local entity for which a final judicial determination described in section 825.9, subsection 2, has been made. The attorney general shall post the database on the attorney general's internet site.

Sec. 12. APPLICABILITY. This Act applies to the release of a person from custody in this state on or after the effective date of this Act.

Sec. 13. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 481, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS
Governor