

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0912.01 Jerry Barry x4341

HOUSE BILL 20-1188

HOUSE SPONSORSHIP

Williams D., Humphrey, Geitner, Neville, Van Winkle, Holtorf, Saine

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PERSONS WHO HAVE ILLEGALLY REENTERED THE
102 UNITED STATES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a law enforcement officer is prohibited from arresting or detaining a person due to a civil immigration detainer. The bill makes an exception to the prohibition if the person was ordered deported or removed from the United States, or has been convicted of specified federal crimes related to improper entry or reentry into the United States, or has been convicted of a felony in Colorado (illegal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

alien). The bill also requires law enforcement to notify the federal immigration and customs enforcement (ICE) of the date and time of the illegal alien's release from custody and to detain an illegal alien for not more than 48 hours after the date and time of release.

Notwithstanding governmental immunity, the bill also creates a civil remedy against a law enforcement officer's employing agency if a law enforcement officer does not notify ICE or detain the illegal alien as required and the illegal alien then commits a crime. The victim of the crime is entitled to compensatory damages up to specified limits if the damages are proximately caused by the crime.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Stopping Sanctuary Cities Felons Act".

4 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-76.6-102
5 as follows:

6 **24-76.6-102. Civil immigration detainers.** (1) The general
7 assembly finds and declares that:

8 ~~(a) Federal immigration authorities at times submit requests to~~
9 ~~state and local law enforcement agencies to detain an inmate after the~~
10 ~~inmate is eligible for release from custody. Continued detention of an~~
11 ~~inmate under a federal civil immigration detainer constitutes a new arrest~~
12 ~~under state law and a seizure under the fourth amendment of the United~~
13 ~~States constitution. SANCTUARY CITY POLICIES THAT PREVENT THE~~
14 ~~DETENTION OF ILLEGAL ALIENS, ESPECIALLY THOSE WHO HAVE~~
15 ~~COMMITTED FELONIES, ARE RECKLESS AND HAVE LED TO ADDED CRIMINAL~~
16 ~~ACTIVITY, INCLUDING MURDER, IN COLORADO;~~

17 ~~(b) Requests for civil immigration detainers are not warrants~~
18 ~~under Colorado law. A warrant is a written order by a judge directed to~~
19 ~~a law enforcement officer commanding the arrest of the person named, as~~
20 ~~defined in section 16-1-104 (18). None of the civil immigration detainer~~

1 requests received from the federal immigration authorities are reviewed,
2 approved, or signed by a judge as required by Colorado law. The
3 continued detention of an inmate at the request of federal immigration
4 authorities beyond when he or she would otherwise be released
5 constitutes a warrantless arrest, which is unconstitutional, *People v.*
6 *Burns*, 615 P.2d 686, 688 (Colo. 1980). LOCAL AND STATE LAW
7 ENFORCEMENT OFFICIALS SHOULD COOPERATE WITH IMMIGRATION AND
8 CUSTOMS ENFORCEMENT, AND OTHER FEDERAL AGENCIES, TO ENSURE
9 THAT ILLEGAL ALIENS WHO HAVE COMMITTED FELONIES ARE REMOVED
10 FROM COLORADO AND THE UNITED STATES;

11 (c) DETAINING ILLEGAL ALIENS WHO HAVE COMMITTED FELONIES
12 WILL HELP AVOID TRAGIC SITUATIONS SUCH AS WHEN JUAN SANCHEZ
13 MURDERED ANNETTE CONQUERING BEAR ON DECEMBER 17, 2019, IN A
14 HIT-AND-RUN INCIDENT. IT WAS REPORTED THAT JUAN SANCHEZ HAD
15 CRIMINALLY REENTERED THE UNITED STATES AFTER HAVING BEEN
16 DEPORTED AT LEAST SIX TIMES.

17 (d) LEGAL RESIDENTS AND CITIZENS DEMAND THAT COLORADO
18 POLITICIANS STOP ADVANCING SANCTUARY CITY POLICIES THAT ENABLE
19 CRIMINALS TO RUN LOOSE ON THE STREETS; AND

20 (e) THE GENERAL ASSEMBLY RECOGNIZES IT MADE A MISTAKE IN
21 ENACTING HOUSE BILL 19-1124 WITHOUT PROVIDING A POLICY SOLUTION
22 THAT REQUIRES LOCAL AND STATE LAW ENFORCEMENT TO FULLY
23 COOPERATE WITH IMMIGRATION AND CUSTOMS ENFORCEMENT, AND OTHER
24 FEDERAL AGENCIES, WHEN DETAINING ILLEGAL ALIENS WHO HAVE
25 COMMITTED FELONIES.

26 (2) A law enforcement officer shall not arrest or detain an
27 individual on the basis of a civil immigration detainer request UNLESS THE

1 INDIVIDUAL WAS PREVIOUSLY:

2 (a) ORDERED DEPORTED OR REMOVED FROM THE UNITED STATES;

3 (b) CONVICTED OF IMPROPER ENTRY INTO THE UNITED STATES IN
4 VIOLATION OF 8 U.S.C. SEC. 1325 OR REENTRY OF A REMOVED ALIEN IN
5 VIOLATION OF 8 U.S.C. SEC. 1326; OR

6 (c) CONVICTED OF A FELONY IN THE STATE.

7 (3) ~~The authority of law enforcement is limited to the express~~
8 ~~authority granted in state law.~~ FOR AN INDIVIDUAL DESCRIBED BY
9 SUBSECTIONS (2)(a) TO (2)(c) OF THIS SECTION, INCLUDING IF THE LAW
10 ENFORCEMENT OFFICER IS INFORMED BY THE UNITED STATES CUSTOMS
11 AND IMMIGRATION ENFORCEMENT THAT THE INDIVIDUAL IS AS DESCRIBED
12 IN SUBSECTIONS (2)(a) TO (2)(c) OF THIS SECTION, A LAW ENFORCEMENT
13 OFFICER SHALL:

14 (a) NOTIFY THE UNITED STATES IMMIGRATION AND CUSTOMS
15 ENFORCEMENT AS EXPEDITIOUSLY AS POSSIBLE OF THE INDIVIDUAL'S
16 ANTICIPATED DATE AND TIME OF RELEASE; AND

17 (b) ONCE SUCH INDIVIDUAL BECOMES ELIGIBLE FOR RELEASE FROM
18 CUSTODY, DETAIN THE INDIVIDUAL FOR THE PERIOD OF TIME REQUESTED
19 IN ANY CIVIL IMMIGRATION DETAINER REQUEST; EXCEPT THAT THE
20 INDIVIDUAL NEED NOT BE DETAINED FOR MORE THAN FORTY-EIGHT HOURS
21 AFTER THE INDIVIDUAL BECOMES ELIGIBLE FOR RELEASE.

22 (4) Nothing in this section precludes any law enforcement officer
23 or employee from cooperating or assisting federal immigration
24 enforcement authorities in the execution of a warrant issued by a federal
25 judge or magistrate or honoring any writ issued by any state or federal
26 judge concerning the transfer of a prisoner to or from federal custody.

27 (5) Nothing in this section precludes any law enforcement officer

1 from investigating or enforcing any criminal law or from participating in
2 coordinated law enforcement actions with federal law enforcement
3 agencies in the enforcement of local, state, or federal criminal laws.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 13-21-131 as
5 follows:

6 **13-21-131. Civil damages resulting from crime by an illegal**
7 **alien - standing to sue - exception to governmental immunity -**
8 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
9 OTHERWISE REQUIRES:

10 (a) "ILLEGAL ALIEN" MEANS A PERSON OTHER THAN A UNITED
11 STATES CITIZEN WHO WAS PREVIOUSLY:

12 (I) ORDERED DEPORTED OR REMOVED FROM THE UNITED STATES;
13 OR

14 (II) CONVICTED OF IMPROPER ENTRY INTO THE UNITED STATES IN
15 VIOLATION OF 8 U.S.C. SEC. 1325, REENTRY OF A REMOVED ALIEN IN
16 VIOLATION OF 8 U.S.C. SEC. 1326, OR A FELONY IN COLORADO.

17 (b) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER
18 EMPLOYED BY THE COLORADO STATE PATROL, A MUNICIPAL POLICE
19 DEPARTMENT, A TOWN MARSHAL'S OFFICE, OR A COUNTY SHERIFF'S OFFICE.

20 (2) (a) NOTWITHSTANDING THE PROTECTIONS OF THE "COLORADO
21 GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, ANY PERSON
22 WHO CLAIMS THAT HE OR SHE IS A VICTIM OF ANY CRIME COMMITTED BY
23 AN ILLEGAL ALIEN AND THAT HE OR SHE HAS SUFFERED A PERSONAL
24 INJURY OR INJURY TO REAL OR PERSONAL PROPERTY AS A RESULT OF THAT
25 CRIME HAS STANDING TO FILE AN ACTION FOR AND IS ENTITLED TO
26 COMPENSATORY DAMAGES AGAINST THE EMPLOYING AGENCY OF ANY LAW
27 ENFORCEMENT OFFICER IF:

1 (I) THE LAW ENFORCEMENT OFFICER FAILED TO NOTIFY THE
2 UNITED STATES CUSTOMS AND IMMIGRATION ENFORCEMENT
3 EXPEDITIOUSLY OF THE DATE AND TIME OF THE ILLEGAL ALIEN'S RELEASE
4 OR DETAIN THE ILLEGAL ALIEN;

5 (II) THE ILLEGAL ALIEN COMMITTED THE CRIME THAT CAUSED THE
6 INJURY AFTER HE OR SHE WAS RELEASED FROM CUSTODY;

7 (III) THE ILLEGAL ALIEN IS CONVICTED OF THE CRIME THAT
8 CAUSED THE INJURY TO A PERSON OR PROPERTY; AND

9 (IV) THE CRIMINAL ACTIVITY IS A PROXIMATE CAUSE OF THE
10 INJURY TO THE PERSON OR TO THE PERSON'S PROPERTY.

11 (b) WHEN THE CLAIM IS FOR DEATH BY WRONGFUL ACT OR
12 OMISSION, THE ACTION MAY BE FILED BY THE PERSONAL REPRESENTATIVE,
13 SURVIVING SPOUSE, OR NEXT OF KIN OF THE DECEASED.

14 (c) THE LAW ENFORCEMENT OFFICER'S EMPLOYING AGENCY IS NOT
15 LIABLE UNDER THIS SECTION IF THE LAW ENFORCEMENT OFFICER
16 EXPEDITIOUSLY NOTIFIED THE UNITED STATES CUSTOMS AND
17 IMMIGRATION ENFORCEMENT OF THE DATE AND TIME OF THE ILLEGAL
18 ALIEN'S RELEASE AND THE UNITED STATES CUSTOMS AND IMMIGRATION
19 ENFORCEMENT FAILED TO ARREST THE ILLEGAL ALIEN AT THE DATE AND
20 TIME OF THE ILLEGAL ALIEN'S RELEASE.

21 (3) (a) THE MAXIMUM AMOUNT THAT MAY BE RECOVERED IN
22 COMPENSATORY DAMAGES UNDER THIS SECTION IN ANY SINGLE
23 OCCURRENCE FROM A LAW ENFORCEMENT OFFICER'S EMPLOYING AGENCY
24 IS:

25 (I) FOR ANY PROPERTY DAMAGE INCURRED BY ONE PERSON IN ANY
26 SINGLE OCCURRENCE, THE SUM OF THREE HUNDRED FIFTY THOUSAND
27 DOLLARS;

1 (II) FOR ANY PROPERTY DAMAGE INCURRED BY TWO OR MORE
2 PERSONS IN ANY SINGLE OCCURRENCE, THE SUM OF NINE HUNDRED NINETY
3 THOUSAND DOLLARS; EXCEPT THAT IN SUCH INSTANCE, NO PERSON MAY
4 RECOVER IN EXCESS OF THREE HUNDRED FIFTY THOUSAND DOLLARS;

5 (III) FOR ANY PERSONAL INJURY TO ONE PERSON IN ANY SINGLE
6 OCCURRENCE, THE SUM OF SEVEN HUNDRED THOUSAND DOLLARS;

7 (IV) FOR ANY PERSONAL INJURY TO TWO OR MORE PERSONS IN ANY
8 SINGLE OCCURRENCE, THE SUM OF ONE MILLION NINE HUNDRED EIGHTY
9 THOUSAND DOLLARS; EXCEPT THAT, IN SUCH INSTANCE, NO PERSON MAY
10 RECOVER IN EXCESS OF SEVEN HUNDRED THOUSAND DOLLARS.

11 (b) THE SECRETARY OF STATE SHALL ANNUALLY ADJUST THE
12 AMOUNTS SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION IN THE SAME
13 MANNER AS THE ADJUSTMENTS ARE MADE TO THE LIMITATIONS ON
14 DAMAGES SPECIFIED FOR THE "COLORADO GOVERNMENTAL IMMUNITY
15 ACT" IN SECTION 24-10-114 (1)(b).

16 (4) GOVERNMENTAL IMMUNITY PURSUANT TO SECTION 24-10-106
17 DOES NOT APPLY IN AN ACTION BROUGHT UNDER THIS SECTION.

18 (5) NOTHING IN THIS SECTION REQUIRES A LAW ENFORCEMENT
19 OFFICER OR THE OFFICER'S EMPLOYING AGENCY TO VIOLATE ANY LAWFUL
20 ORDER ENTERED BY THE UNITED STATES SUPREME COURT, THE TENTH
21 CIRCUIT COURT OF APPEALS, OR THE UNITED STATES DISTRICT COURT FOR
22 THE DISTRICT OF COLORADO REGARDING THE ENFORCEMENT OF FEDERAL
23 IMMIGRATION LAW.

24 **SECTION 4. Applicability.** This act applies to claims arising on
25 or after the effective date of this act.

26 **SECTION 5. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.