

SB 563-FN - AS INTRODUCED

2024 SESSION

24-2873

12/05

SENATE BILL ***563-FN***

AN ACT relative to federal immigration enforcement.

SPONSORS: Sen. Gannon, Dist 23; Sen. Gendreau, Dist 1; Sen. Lang, Dist 2; Sen. Abbas, Dist 22; Sen. Murphy, Dist 16; Sen. Bradley, Dist 3; Sen. Birdsell, Dist 19; Sen. Pearl, Dist 17; Sen. Avar, Dist 12; Sen. Innis, Dist 7; Rep. Piemonte, Rock. 9; Rep. Bernardy, Rock. 36; Rep. Hobson, Rock. 14; Rep. L. Walsh, Rock. 15

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits state and local government entities from adopting sanctuary policies to prohibit or impede the enforcement of federal immigration law.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to federal immigration enforcement.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Anti-Sanctuary Act. Amend RSA by inserting after chapter 130 the following
2 new chapter:

3 CHAPTER 130-A

4 ANTI-SANCTUARY ACT

5 103-A:1 Definitions. In this chapter:

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

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

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

20 (b) The federal immigration agency's official form is incomplete and fails to indicate on
21 its face that the federal immigration official has probable cause to believe that the person to be
22 detained is a removable alien under federal immigration law, but is supported by an affidavit, order,
23 or other official documentation that indicates that the federal immigration agency has probable
24 cause to believe that the person to be detained is a removable alien under federal immigration law;
25 and

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

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

30 IV. "Law enforcement agency" means an agency in this state charged with enforcement of
31 state, county, municipal, or federal laws or with managing custody of detained persons in this state

1 and includes municipal police departments, sheriff's offices, state police departments, state
2 university and college police departments, county correctional agencies, and the department of
3 corrections.

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

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

11 (a) Complying with an immigration detainer;

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

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

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

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

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

22 103-A:2 Prohibition of Sanctuary Policies.

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

26 103-A:3 Cooperation with Federal Immigration Authorities.

27 I. A law enforcement agency shall use best efforts to support the enforcement of federal
28 immigration law.

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

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

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

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

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

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

4 III. This section does not require a state entity, local governmental entity, or law
5 enforcement agency to provide a federal immigration agency with information related to a victim of
6 or a witness to a criminal offense if the victim or witness timely and in good faith responds to the
7 entity's or agency's request for information and cooperation in the investigation or prosecution of the
8 offense.

9 IV. This section does not authorize a law enforcement agency to detain an alien unlawfully
10 present in the United States pursuant to an immigration detainer solely because the alien witnessed
11 or reported a crime or was a victim of a criminal offense.

12 V. This section does not apply to any alien unlawfully present in the United States if he or
13 she is or has been a necessary witness or victim of a crime of domestic violence, rape, sexual
14 exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping,
15 false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion,
16 or witness tampering.

17 103-A:4 Enforcement.

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

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

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

29 2 Effective Date. This act shall take effect January 1, 2025.

SB 563-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to federal immigration enforcement.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ No

METHODOLOGY:

This bill prohibits state and local government entities from adopting sanctuary policies to prohibit or impede the enforcement of federal immigration law.

The Department of Justice indicates this bill would authorize the Attorney General to bring enforcement actions for violations of the proposed chapter. The Department states the fiscal impact would be proportional to the number of enforcement actions brought under the bill and the corresponding personnel and litigation costs associated with each action. The number of enforcement actions that may result from the bill is unknown. A small number of enforcement actions may be absorbed by the present staffing levels and litigation budget. If this bill resulted in a significant number of enforcement actions, the Department would require an additional attorney in the Bureau of Civil Law and an increase in the litigation budget. A larger number of enforcement actions would necessitate and increase in the litigation budget by up to \$100,000, and Department of Justice would need an attorney to oversee those actions. The estimated cost of an additional attorney, including benefits and associated costs, would be \$127,000 in FY 2025, \$125,000 in FY 2026 and \$125,000 in FY 2027.

The Judicial Branch states it is not possible to estimate how this change in law would impact the number of filings in the courts. Because the bill creates a new enforcement action, it is expected that litigation could increase.

AGENCIES CONTACTED:

Department of Justice and Judicial Branch