



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3782/2
EAW&MES:amn&kjf

2019 SENATE BILL 401

September 16, 2019 - Introduced by Senators LARSON, L. TAYLOR, SMITH and JOHNSON, cosponsored by Representatives CABRERA, BROSTOFF, HAYWOOD and BOWEN. Referred to Committee on Insurance, Financial Services, Government Oversight and Courts.

- 1 **AN ACT to create** 59.26 (11), 66.0112 and 165.57 of the statutes; **relating to:**
2 limiting the cooperation of state and local law enforcement officers with certain
3 federal immigration enforcement activities.

Analysis by the Legislative Reference Bureau

This bill limits the extent to which the Department of Justice and local law enforcement officers may cooperate with federal immigration enforcement activities.

Under the bill, DOJ may not authorize a state or local law enforcement officer to assist a federal immigration officer in immigration enforcement activities, and the department must publish a model policy for local governments to adopt on limiting assistance with such activities. The bill defines “immigration enforcement” as any action taken by federal or state or local law enforcement officers related to the investigation or enforcement of any federal civil immigration law or any federal criminal immigration law that penalizes an individual’s presence in, entry or reentry to, or employment in the United States.

Also under the bill, no city, village, town, or county (political subdivision) may authorize or permit its law enforcement officers to assist a federal immigration officer in immigration enforcement activities, nor may a sheriff or deputy provide such assistance. In addition, neither a sheriff, a deputy, nor a state or local law enforcement officer may engage in activities related to the investigation, interrogation, detention, or arrest of an individual for any purpose related to immigration enforcement, including actions related to determining whether an individual has satisfactory immigration status and detaining an individual on an

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Immigration and Customs Enforcement hold request. Under the bill, satisfactory immigration status means determining whether a non-U.S. citizen is lawfully present in the United States.

Finally, the bill requires a political subdivision to adopt and implement the DOJ's model policy related to limiting assistance with immigration enforcement activities.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.26 (11) of the statutes is created to read:

2 59.26 (11) (a) In this subsection:

3 1. "Civil immigration warrant" means any arrest warrant issued by a federally
4 authorized immigration officer specified in 8 CFR section 287.5 (e) (2) for the arrest
5 of an individual for an alleged violation of federal civil immigration law.

6 2. "Hold request" means a federal immigration and customs enforcement
7 request that a local law enforcement agency maintain custody of an individual
8 currently in its custody beyond the time he or she would otherwise be eligible for
9 release in order to facilitate the federal department of homeland security to assume
10 custody.

11 3. "Immigration enforcement" includes any of the following actions taken by a
12 federal law enforcement officer, a sheriff, or a deputy:

13 a. The investigation or enforcement of any federal civil immigration law.

14 b. The investigation or enforcement of any federal criminal immigration law
15 that penalizes an individual's presence in, entry or reentry to, or employment in the
16 United States.

17 4. "Satisfactory immigration status" means immigration status under which
18 an individual who is not a U.S. citizen is lawfully present in the United States.

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1 (b) Neither a sheriff nor a deputy may assist a federal immigration officer in
2 immigration enforcement activities.

3 (c) No sheriff or deputy may engage in activities related to the investigation,
4 interrogation, detention, or arrest of an individual for any purpose related to
5 immigration enforcement, including the following:

6 1. Inquiring into whether an individual has satisfactory immigration status.

7 2. Detaining an individual based solely on information or belief that the
8 individual does not have satisfactory immigration status.

9 3. Detaining an individual on the basis of a hold request.

10 4. Assisting or participating in arrests based on a civil immigration warrant.

11 **SECTION 2.** 66.0112 of the statutes is created to read:

12 **66.0112 Limiting cooperation with immigration officials and limiting**
13 **engagement in immigration enforcement. (1) DEFINITIONS.** In this section:

14 (a) "Civil immigration warrant" means any arrest warrant issued by a federally
15 authorized immigration officer specified in 8 CFR section 287.5 (e) (2) for the arrest
16 of an individual for an alleged violation of federal civil immigration law.

17 (b) "Hold request" means a federal immigration and customs enforcement
18 request that a local law enforcement agency maintain custody of an individual
19 currently in its custody beyond the time he or she would otherwise be eligible for
20 release in order to facilitate the federal department of homeland security to assume
21 custody.

22 (c) "Immigration enforcement" includes any of the following actions taken by
23 a federal law enforcement officer or a local law enforcement officer:

24 1. The investigation or enforcement of any federal civil immigration law.

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1 2. The investigation or enforcement of any federal criminal immigration law
2 that penalizes an individual's presence in, entry or reentry to, or employment in the
3 United States.

4 (d) "Local law enforcement officer" means any person employed by a political
5 subdivision for the purpose of detecting and preventing crime and enforcing laws or
6 ordinances and who is authorized to make arrests for violations of the laws or
7 ordinances that the person is employed to enforce.

8 (e) "Political subdivision" means any city, village, town, or county.

9 (f) "Satisfactory immigration status" means immigration status under which
10 an individual who is not a U.S. citizen is lawfully present in the United States.

11 **(2) LIMITATION ON COOPERATION.** A political subdivision may not authorize or
12 permit a local law enforcement officer who is employed by the political subdivision
13 to assist a federal immigration officer in immigration enforcement activities.

14 **(3) LIMITATION ON ENFORCEMENT.** No local law enforcement officer may engage
15 in activities related to the investigation, interrogation, detention, or arrest of an
16 individual for any purpose related to immigration enforcement, including the
17 following:

18 (a) Inquiring into whether an individual has satisfactory immigration status.

19 (b) Detaining an individual based solely on information or belief that the
20 individual does not have satisfactory immigration status.

21 (c) Detaining an individual on the basis of a hold request.

22 (d) Assisting or participating in arrests based on a civil immigration warrant.

23 **(4) COMPLIANCE WITH STATE POLICY.** No later than the first day of the 6th month
24 after the effective date of this subsection [LRB inserts date], a political subdivision
25 shall adopt and implement the policy published by the department of justice under

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1 s. 165.57 (4) related to limiting assistance with immigration enforcement activities
2 to the fullest extent possible.

3 **SECTION 3.** 165.57 of the statutes is created to read:

4 **165.57 Limiting cooperation with immigration officials and limiting**
5 **engagement in immigration enforcement; state policy. (1) DEFINITIONS.** In
6 this section:

7 (a) “Civil immigration warrant” means any arrest warrant issued by a federally
8 authorized immigration officer specified in 8 CFR section 287.5 (e) (2) for the arrest
9 of an individual for an alleged violation of federal civil immigration law.

10 (b) “Hold request” means a federal immigration and customs enforcement
11 request that a local law enforcement agency maintain custody of an individual
12 currently in its custody beyond the time he or she would otherwise be eligible for
13 release in order to facilitate the federal department of homeland security to assume
14 custody.

15 (c) “Immigration enforcement” includes any of the following actions taken by
16 a federal law enforcement officer or a local law enforcement officer:

- 17 1. The investigation or enforcement of any federal civil immigration law.
18 2. The investigation or enforcement of any federal criminal immigration law
19 that penalizes an individual’s presence in, entry or reentry to, or employment in the
20 United States.

21 (d) “Local law enforcement officer” means any person employed by the state or
22 any political subdivision of the state, for the purpose of detecting and preventing
23 crime and enforcing laws or ordinances and who is authorized to make arrests for
24 violations of the laws or ordinances that the person is employed to enforce.

25 (e) “Political subdivision” means any city, village, town, or county.

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1 (f) "Satisfactory immigration status" means immigration status under which
2 an individual who is not a U.S. citizen is lawfully present in the United States.

3 (2) LIMITATION ON COOPERATION. The department of justice may not authorize
4 a local law enforcement officer to assist a federal immigration officer in immigration
5 enforcement activities.

6 (3) LIMITATION ON ENFORCEMENT. No local law enforcement officer may engage
7 in activities related to the investigation, interrogation, detention, or arrest of an
8 individual for any purpose related to immigration enforcement, including the
9 following:

10 (a) Inquiring into whether an individual has satisfactory immigration status.

11 (b) Detaining an individual based solely on information or belief that the
12 individual does not have satisfactory immigration status.

13 (c) Detaining an individual on the basis of a hold request.

14 (d) Assisting or participating in arrests based on a civil immigration warrant.

15 (4) MODEL POLICY. No later than the first day of the 4th month beginning after
16 the effective date of this subsection [LRB inserts date], the department of justice
17 shall publish a model policy for limiting assistance with immigration enforcement
18 activities to the fullest extent possible for adoption by a political subdivision under
19 s. 66.0112 (4).

20 **SECTION 4. Initial applicability.**

21 (1) This act first applies to immigration enforcement activities that occur on the
22 effective date of this subsection.

23 (END)