

1 AN ACT relating to federal immigration cooperation.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Employee" means a person who is employed by a law enforcement agency
7 who is not otherwise a law enforcement official and a person who is
8 employed by a public agency who is not otherwise a public official;

9 (b) "Law enforcement agency" means:

10 1. Any public agency that employs a police officer as defined in KRS
11 15.420(2)(a) or a special law enforcement officer as defined by KRS
12 61.900(6)(a) to (e);

13 2. Any public agency that is composed of or employs other public peace
14 officers;

15 3. Jailers;

16 4. Metropolitan correctional services departments operating under KRS
17 Chapter 67B;

18 5. The Department of Corrections as organized under KRS Chapter 196
19 or any of its subunits; and

20 6. A campus security authority as defined in KRS 164.948 of a public
21 institution operating under KRS Chapter 164;

22 (c) "Law enforcement official" means an elected or appointed officer, peace
23 officer or other employee that oversees or serves within a law enforcement
24 agency within the Commonwealth of Kentucky;

25 (d) "Public agency" means "public agency" as defined in KRS 61.870(1),
26 including a policy-making board, or any officer, employee, or entity, of a
27 public institution operating under KRS Chapter 164;

1 (e) "Public official" means any elected or appointed official of a public agency,
2 other than a law enforcement official as defined in paragraph (c) of this
3 subsection; and

4 (f) "Sanctuary policy" means an order, ordinance, resolution, or policy,
5 whether written or unwritten, that:

6 1. Limits or prohibits a law enforcement official or employee of a law
7 enforcement agency or public agency from communicating or
8 cooperating with federal agencies or federal law enforcement officers
9 or another state or local law enforcement agency, law enforcement
10 official, or public agency to verify or report the immigration status of
11 a person within the state;

12 2. Grants to illegal immigrants the right to lawful presence or status
13 within the boundaries of this state in violation of federal law;

14 3. Violates 8 U.S.C. sec. 1373 or sec. 1644;

15 4. Restricts or imposes any conditions upon the law enforcement
16 agency's or public agency's cooperation or compliance with detainers
17 or other legal and valid requests from United States Immigration and
18 Customs Enforcement to maintain custody of an immigrant or to
19 transfer an immigrant to the custody of United States Immigration
20 and Customs Enforcement, or another federal agency or federal law
21 enforcement officer;

22 5. Requires United States Immigration and Customs Enforcement, or
23 another federal law enforcement agency or federal law enforcement
24 officer, to obtain a warrant or demonstrate more than probable cause
25 before complying with detainers or other legal and valid requests from
26 United States Immigration and Customs Enforcement to maintain
27 custody of an immigrant or to transfer an immigrant to the custody of

1 United States Immigration and Customs Enforcement, or another
2 federal agency or federal law enforcement officer;

3 6. Except as provided in subsection (5)(c) of this section, prevents law
4 enforcement officials or employees of a law enforcement agency or
5 public officials, or employees of a public agency from asking a person
6 about his or her citizenship or immigration status; or

7 7. Prohibits a federal immigration officer, or other federal law
8 enforcement officer or a law enforcement official, from entering and
9 conducting enforcement activities at a jail or other correctional facility
10 to enforce federal immigration laws.

11 (2) No law enforcement agency, or law enforcement official or employee of a law
12 enforcement agency, or public agency, or public official, or employee, of a public
13 agency, and no public institution operating pursuant to KRS Chapter 164, and no
14 president, board, or administrator of an institution operating under KRS Chapter
15 164, shall enact, adopt, or otherwise enforce any sanctuary policy.

16 (3) (a) All law enforcement agencies and law enforcement officials shall use their
17 best efforts, considering available resources, to assist federal law
18 enforcement agencies and federal law enforcement officers or other law
19 enforcement officials in the enforcement of federal immigration law.

20 (b) This subsection applies to law enforcement officials, from whom assistance
21 is requested, only when those law enforcement officials are acting within
22 the scope of their official duties or employment with the law enforcement
23 agency.

24 (c) All law enforcement agencies and all law enforcement officials shall
25 conduct any enforcement of federal immigration laws in compliance with
26 federal law and the laws of the Commonwealth of Kentucky.

27 (d) Nothing in this section shall be construed to create any new expectation or

1 requirement related to the enforcement of federal immigration law by a law
2 enforcement agency or law enforcement official without a legal and valid
3 request for assistance, unless a law enforcement agency or law enforcement
4 official is not in compliance with this section.

5 (4) (a) Public agencies, and public officials and employees of public agencies shall
6 use their best efforts, considering available resources, to assist federal
7 agencies, federal law enforcement officers, or law enforcement officials in
8 the enforcement of federal immigration law.

9 (b) Public agencies, and public officials and employees of public agencies shall
10 only be required to assist in the enforcement of federal immigration law in
11 response to a legal and valid request from a federal agency, federal law
12 enforcement officer, or law enforcement official.

13 (c) The provisions of this section shall not be construed to require that public
14 agencies, and public officials and employees of public agencies comply with
15 a request for assistance in the enforcement of federal immigration law if the
16 request is in direct conflict with federal law or the laws of the
17 Commonwealth of Kentucky.

18 (d) The provisions of this section shall not be construed to create an obligation
19 for a public agency, or a public official or employee of a public agency, to
20 comply with a request for assistance in the enforcement of federal
21 immigration law from a federal agency, federal law enforcement officer, or
22 law enforcement official, if that request does not fall within the scope of
23 that agency's ability to comply as related to the agency's function, or within
24 the scope of the public official's or employee's job duties or employment
25 with the public agency. The collection of documentation and information in
26 the custody of the public agency shall be considered to be within the scope
27 of a public agency's function and within the public official's or employee's

1 job duties.

2 (e) The provisions of this section shall not be construed to create an obligation
3 for any public agency, or any public official, or employee of a public
4 agency, to take any law enforcement action related to the enforcement of
5 federal immigration law. Such actions shall include, but not be limited to:
6 pursuit, detention, arrest, and interrogation.

7 (5) Notwithstanding subsections (2), (3), or (4) of this section, a law enforcement
8 agency and its law enforcement officials and employees, and a public agency and
9 its public officials and employees:

10 (a) Shall not be required to perform any duty related to the illegal immigration
11 status of a person that may be imposed as a result of this section with
12 respect to a person who has provided verified proof that the person is a
13 citizen of the United States or that the person is otherwise in the United
14 States in conformity with applicable state and federal laws;

15 (b) Shall not consider race, color, religion, language, or national origin while
16 performing any duty that may be imposed as a result of this section except
17 to the extent permitted by the Constitution of the United States or the
18 Constitution of Kentucky; and

19 (c) May adopt a policy that permits the law enforcement officials and
20 employees of the law enforcement agency to inquire and collect information
21 as to the nationality or immigration status of a victim of or witness to a
22 crime only when the officer or employee of the law enforcement agency
23 determines that the inquiry is pertinent to the investigation of the alleged
24 public offense or for the purposes of providing the victim or witness with
25 information about federal visas designed to protect individuals providing
26 assistance to law enforcement.

27 (6) (a) This section shall not apply to domestic violence shelters as defined in KRS

1 511.085, children's advocacy centers as defined in 620.020, rape crisis
2 centers as defined in KRS 211.600, public advocacy offices operating under
3 KRS Chapter 31, public health taxing districts operating under KRS
4 212.720 to 212.760, and departments of health, districts of health, and
5 independent districts of health operating under KRS Chapter 212, health
6 departments operating under KRS 67.0802, or any other department
7 operating under KRS Chapter 212, or any public official, officer, employee,
8 volunteer, or any other person directly performing services on behalf of any
9 entities listed in this paragraph.

10 **(b) 1. This section shall not apply to a school district, district board of**
11 **education, or public charter school, or employees or contractors**
12 **thereof, including but not limited to a school resource officer**
13 **employed or contracted for by a school district, district board of**
14 **education, or public charter school while the school resource officer is**
15 **performing as such under the contract.**

16 **2. This section shall not apply to the release of information contained in**
17 **educational records of an educational agency or institution, except in**
18 **conformity with the Family Educational Rights and Privacy Act, 20**
19 **U.S.C. sec. 1232g, and the Kentucky Family Education Rights and**
20 **Privacy Act as codified in KRS 160.700 to 160.730.**

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
22 READ AS FOLLOWS:

23 **(1) Any sanctuary policy adopted prior to or after the effective date of this Act in**
24 **violation of Section 1 of this Act shall be invalid, void, and unenforceable.**

25 **(2) The Governor, Attorney General, or any state constitutional officer may bring an**
26 **action to enforce the provisions of Section 1 of this Act through injunctive action.**

27 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO

- 1 READ AS FOLLOWS:
- 2 *Sections 1 and 2 of this Act may be cited as the Federal Immigration Cooperation Act*
- 3 *of 2020.*