

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL 153
Second Edition Engrossed 3/4/25

Short Title: North Carolina Border Protection Act. (Public)

Sponsors: Senators Berger, Daniel, and B. Newton (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 25, 2025

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE BORDERS OF THE STATE BY (I) REQUIRING COOPERATION WITH FEDERAL IMMIGRATION OFFICIALS, (II) ENSURING STATE FUNDS ARE BEING USED FOR THE BENEFIT OF PERSONS IN THE STATE LEGALLY, (III) CREATING ADDITIONAL INCENTIVES FOR LOCAL GOVERNMENTS TO COMPLY WITH STATE LAWS RELATED TO IMMIGRATION, AND (IV) PROHIBITING UNC CONSTITUENT INSTITUTIONS FROM BECOMING SANCTUARY UNIVERSITIES.

Whereas, with their votes electing Donald J. Trump to be the 47th President of our great nation, the American people and the people of North Carolina clearly communicated their strong desire to create a safer country through increased border security and stronger immigration policies; and

Whereas, while the federal government is ultimately responsible for the enforcement of our nation's immigration laws, states and local governments have a critical role to play in upholding the rule of law, fighting illegal immigration, and protecting the safety of our citizens; and

Whereas, President Trump issued executive orders on January 20, 2025, to protect the American people against invasion, to secure our borders, and to declare a national emergency at the southern border of the United States, thereby continuing his promises to protect our southern border and ensure immigration laws are followed and enforced; and

Whereas, it is the policy of the United States to take all appropriate action to secure the borders of our Nation, including through cooperating fully with State and local law enforcement officials in enacting federal-State partnerships to enforce federal immigration priorities; and

Whereas, President Trump has, to ensure State and local law enforcement agencies across the United States can assist with the protection of the American people, (i) instructed the Secretary of Homeland Security, to the maximum extent permitted by law, and with the consent of State or local officials as appropriate, to take appropriate action, through agreements under section 287(g) of the INA (8 U.S.C. § 1357(g)) or otherwise, and (ii) authorized State and local law enforcement officials, as the Secretary of Homeland Security determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary of Homeland Security; and

Whereas, President Trump has expressly stated the goal of upholding the rule of law, defending against the waste of hard-earned taxpayer resources, and protecting benefits for American citizens in need, including individuals with disabilities and veterans; and



Whereas, Section 5 of Article III of the North Carolina Constitution charges the Governor with taking care that the laws are faithfully executed; and

Whereas, to date, Governor Stein has not directed the agencies, law enforcement officers, or other agents of the State to take actions (i) to support or participate in these initiatives to accomplish these goals of securing taxpayer dollars for American and State citizens or (ii) to prevent actions by agencies or political subdivisions of the State that may frustrate these purposes; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. COOPERATION WITH FEDERAL IMMIGRATION OFFICIALS

SECTION 1.(a) The Secretary of the Department of Public Safety shall do each of the following:

- (1) Enter into a Memorandum of Agreement (MOA) with the Director of U.S. Immigration and Customs Enforcement (ICE) pursuant to section 287(g) of the Immigration and Nationality Act (8 U.S.C. § 1357(g)), to permit designated State law enforcement officers to perform immigration law enforcement functions. The designated State law enforcement officers shall be required to receive appropriate training as provided by ICE and shall function under the supervision of ICE officers when performing under the MOA.
- (2) Develop departmental policies requiring each of the following:
 - a. Employees of the Department shall attempt to determine if any person in the custody or under the supervision of the Department is a legal resident or citizen of the United States or its territories by inquiry of the person, or by examination of any relevant documents, or both.
 - b. When employees are unable to determine if a person is a legal resident or citizen of the United States or its territories under sub-subdivision a. of this subdivision, the employees shall make a query of Immigration and Customs Enforcement of the United States Department of Homeland Security.
 - c. When employees determine that a person in the custody or under the supervision of the Department is not a legal resident or citizen of the United States or its territories, the employees shall provide requested information regarding the person to Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (3) Cooperate to the fullest extent allowed by law with Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (4) No later than August 1, 2025, report the Memorandum of Agreement and departmental policies required by this section to the Joint Legislative Oversight Committee on Justice and Public Safety.

SECTION 1.(b) The Secretary of the Department of Adult Correction shall do each of the following:

- (1) Enter into a Memorandum of Agreement (MOA) with the Director of U.S. Immigration and Customs Enforcement (ICE) pursuant to section 287(g) of the Immigration and Nationality Act (8 U.S.C. § 1357(g)), to permit designated State law enforcement officers to perform immigration law enforcement functions. The designated State law enforcement officers shall be required to receive appropriate training as provided by ICE and shall function under the supervision of ICE officers when performing under the MOA.
- (2) Develop departmental policies requiring each of the following:

- a. Employees of the Department shall attempt to determine if any person in the custody or under the supervision of the Department is a legal resident or citizen of the United States or its territories by inquiry of the person, or by examination of any relevant documents, or both.
 - b. When employees are unable to determine if a person is a legal resident or citizen of the United States or its territories under sub-subdivision a. of this subdivision, the employees shall make a query of Immigration and Customs Enforcement of the United States Department of Homeland Security.
 - c. When employees determine that a person in the custody or under the supervision of the Department is not a legal resident or citizen of the United States or its territories, the employees shall provide requested information regarding the person to Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (3) Cooperate to the fullest extent allowed by law with Immigration and Customs Enforcement of the United States Department of Homeland Security.
 - (4) No later than August 1, 2025, report the Memorandum of Agreement and departmental policies required by this section to the Joint Legislative Oversight Committee on Justice and Public Safety.

SECTION 1.(c) The Commander of the State Highway Patrol shall do each of the following:

- (1) Enter into a Memorandum of Agreement (MOA) with the Director of U.S. Immigration and Customs Enforcement (ICE) pursuant to section 287(g) of the Immigration and Nationality Act (8 U.S.C. § 1357(g)), to permit designated State law enforcement officers to perform immigration law enforcement functions. The designated State law enforcement officers shall be required to receive appropriate training as provided by ICE and shall function under the supervision of ICE officers when performing under the MOA.
- (2) Develop State Highway Patrol policies requiring each of the following:
 - a. Employees of the State Highway Patrol shall attempt to determine if any person in the custody or under the supervision of the State Highway Patrol is a legal resident or citizen of the United States or its territories by inquiry of the person, or by examination of any relevant documents, or both.
 - b. When employees are unable to determine if a person is a legal resident or citizen of the United States or its territories under sub-subdivision a. of this subdivision, the employees shall make a query of Immigration and Customs Enforcement of the United States Department of Homeland Security.
 - c. When employees determine that a person in the custody or under the supervision of the State Highway Patrol is not a legal resident or citizen of the United States or its territories, the employees shall provide requested information regarding the person to Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (3) Cooperate to the fullest extent allowed by law with Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (4) No later than August 1, 2025, report the Memorandum of Agreement and State Highway Patrol policies required by this section to the Joint Legislative Oversight Committee on Justice and Public Safety.

SECTION 1.(d) The Director of the State Bureau of Investigation shall do each of the following:

- (1) Enter into a Memorandum of Agreement (MOA) with the Director of U.S. Immigration and Customs Enforcement (ICE) pursuant to section 287(g) of the Immigration and Nationality Act (8 U.S.C. § 1357(g)), to permit designated State law enforcement officers to perform immigration law enforcement functions. The designated State law enforcement officers shall be required to receive appropriate training as provided by ICE and shall function under the supervision of ICE officers when performing under the MOA.
- (2) Develop State Bureau of Investigation policies requiring each of the following:
 - a. Employees of the State Bureau of Investigation shall attempt to determine if any person in the custody or under the supervision of the State Bureau of Investigation is a legal resident or citizen of the United States or its territories by inquiry of the person, or by examination of any relevant documents, or both.
 - b. When employees are unable to determine if a person is a legal resident or citizen of the United States or its territories under sub-subdivision a. of this subdivision, the employees shall make a query of Immigration and Customs Enforcement of the United States Department of Homeland Security.
 - c. When employees determine that a person in the custody or under the supervision of the State Bureau of Investigation is not a legal resident or citizen of the United States or its territories, the employees shall provide requested information regarding the person to Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (3) Cooperate to the fullest extent allowed by law with Immigration and Customs Enforcement of the United States Department of Homeland Security.
- (4) No later than August 1, 2025, report the Memorandum of Agreement and State Bureau of Investigation policies required by this section to the Joint Legislative Oversight Committee on Justice and Public Safety.

SECTION 1.(e) The State Auditor shall perform an audit to determine the compliance of each State agency with the requirements of this section and shall report the results of the audit to the General Assembly no later than December 31, 2025.

SECTION 1.(f) This section is effective when it becomes law.

PART II. CERTIFICATION OF STATE BENEFITS BEING USED FOR AUTHORIZED RESIDENTS OF THE STATE

SECTION 2.(a) The Office of State Budget and Management (OSBM) shall examine covered State public benefits programs to determine whether, and the extent to which, such benefits are being provided to unauthorized aliens. OSBM shall complete the examination required by this section and publish its findings on its website no later than December 31, 2025. In addition, OSBM shall take steps to ensure that covered State public benefits programs are not being used to benefit unauthorized aliens beyond that which is required by federal law and shall report to the General Assembly by January 15, 2026, and annually thereafter on the steps taken, and the resulting success, of those steps. For purposes of this section, "covered State public benefits programs" means any of the following:

- (1) Temporary Assistance for Needy Families (Work First), except for services providing food for infants and children.

- (2) Food and Nutrition Services, except for WIC services to the extent it provides Special Supplemental Nutrition Program for Women, Infants, and Children.
- (3) Programs administered by the North Carolina Housing Finance Agency, including the Housing Trust Fund, the Community Living Voucher Program, the Rental Assistance Voucher Program, programs for reduced-rate mortgages, and programs for down payment assistance for certain low-income and/or first-time homebuyers.
- (4) Low-income housing tax credits, Section 8 Housing, and any other rental or housing assistance programs not listed in another subdivision of this section.
- (5) Medication assistance programs.
- (6) Child care subsidy programs.
- (7) Foster care and adoption assistance payments.
- (8) Refugee assistance programs.
- (9) Low-Income Energy Assistance.
- (10) Work First Cash Assistance and other employment and self-sufficiency training and services.
- (11) Medicaid.
- (12) Single Stream Funding.
- (13) Local inpatient psychiatric beds.
- (14) Any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government.
- (15) Any retirement, disability, unemployment benefit, or any other similar benefit for which payments or assistance are provided by an agency of a State or local government or by appropriated funds of a State or local government.
- (16) State-County Special Assistance.
- (17) Home and Community Care Programs.
- (18) Caregiver Support.
- (19) Early Intervention Services.

SECTION 2.(b) In accordance with subdivision (15) of subsection (a) of this section, for any program under the oversight of the Board of Trustees of the Teachers' and State Employees' Retirement System established under G.S. 135-2 or the Board of Trustees of the Local Governmental Employees' Retirement System established under G.S. 128-22, the employer's certification of the accuracy of submitted information pursuant to G.S. 128-30(g)(4) or G.S. 135-8(f)(4) shall establish that State public benefits are not being provided to unauthorized aliens. OSBM shall examine participating employers to determine whether they are employing only legally authorized employees.

PART III. WAIVER OF LOCAL GOVERNMENT IMMUNITY

SECTION 3.(a) G.S. 153A-145.5 reads as rewritten:

"§ 153A-145.5. Adoption of sanctuary ordinance ~~prohibited~~prohibited; waiver of immunity.

...

(c) A county in violation of this section shall have waived its governmental immunity as provided in G.S. 153A-435.1."

SECTION 3.(b) Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"§ 153A-435.1. Waiver of immunity; sanctuary status.

(a) A county shall have waived its immunity from civil liability in tort if it does not comply with G.S. 153A-145.5 and an unauthorized alien commits a crime against a person or property within the corporate limits of the county.

(b) Immunity shall be waived under subsection (a) of this section even if the county has not purchased insurance as authorized in G.S. 153A-435."

SECTION 3.(c) G.S. 160A-205.2 reads as rewritten:

"§ 160A-205.2. Adoption of sanctuary ordinances ~~prohibited~~prohibited; waiver of immunity.

...

(c) A city in violation of this section shall have waived its governmental immunity as provided in G.S. 160A-485.1."

SECTION 3.(d) Article 21 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"§ 160A-485.1. Waiver of immunity; sanctuary status.

(a) A city shall have waived its immunity from civil liability in tort if it does not comply with G.S. 160A-205.2 and an unauthorized alien commits a crime against a person or property within the corporate limits of the city.

(b) Immunity shall be waived under subsection (a) of this section even if the city has not purchased insurance as authorized in G.S. 160A-485 or G.S. 160A-485.5(a)."

PART IV. UNC CONSTITUENT INSTITUTIONS TO COMPLY WITH LAWS RELATED TO IMMIGRATION

SECTION 4. Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-40.14. Adoption of sanctuary status prohibited.

(a) A constituent institution shall not have any policy or regulation that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

(b) To the extent permitted by federal law, a constituent institution shall not do any of the following related to information regarding the immigration status of any individual:

(1) Prevent law enforcement officials or agencies from gathering the information.

(2) Prevent communication of the information to federal law enforcement agencies."

PART V. EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.