

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;

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 law enforcement officials or  
9 another state or local law enforcement agency or public agency to  
10 verify or report the immigration status of a person within the state;

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

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

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

20 5. Requires United States Immigration and Customs Enforcement to  
21 obtain a warrant or demonstrate more than probable cause before  
22 complying with detainers or other legal and valid requests from United  
23 States Immigration and Customs Enforcement to maintain custody of  
24 an immigrant or to transfer an immigrant to the custody of United  
25 States Immigration and Customs Enforcement;

26 6. Except as provided in subsection (4)(c) of this section, prevents law  
27 enforcement officials or employees of a law enforcement agency or

1                   public officials or employees of a public agency from asking a person  
2                   about his or her citizenship or immigration status; or

3                   7. Prohibits a federal immigration officer from entering and conducting  
4                   enforcement activities at a jail or other correctional facility to enforce  
5                   federal immigration laws.

6                   (2) No law enforcement agency, or law enforcement official or employee, of a law  
7                   enforcement agency, or public agency, or public official or employee, of a public  
8                   agency, and no public institution operating pursuant to KRS Chapter 164, and no  
9                   president, board, or administrator of an institution operating under KRS Chapter  
10                  164, shall enact, adopt, or otherwise enforce any sanctuary policy.

11                  (3) All law enforcement officials, representatives, agents, and employees of a law  
12                  enforcement agency, and public officials, representatives, agents, and employees  
13                  of a public agency shall use their best efforts, considering available resources, to  
14                  support the enforcement of federal immigration law. This subsection applies to  
15                  law enforcement officials, representatives, agents, and employees of law  
16                  enforcement agencies and public officials, representatives, agents, and employees  
17                  of a public agency only when those persons are acting within the scope of their  
18                  official duties, or within the scope of their employment.

19                  (4) Notwithstanding subsections (2) or (3) of this section, a law enforcement agency  
20                  and its law enforcement officials and employees, and a public agency and its  
21                  public officials and employees:

22                  (a) Shall not be required to perform any duty that may be imposed as a result of  
23                  this section with respect to a person who has provided verified proof that the  
24                  person is a citizen of the United States or that the person has lawful  
25                  immigration status in the United States, such as a Kentucky driver's license  
26                  or similar government-issued identification;

27                  (b) Shall not consider race, color, religion, language, or national origin while

1 performing any duty that may be imposed as a result of this section except  
2 to the extent permitted by the Constitution of the United States or the  
3 Constitution of Kentucky; and

4 (c) May adopt a policy that permits the law enforcement officials and  
5 employees of the law enforcement agency to inquire and collect information  
6 as to the nationality or immigration status of a victim of or witness to a  
7 crime only when the officer or employee of the law enforcement agency  
8 determines that the inquiry is pertinent to the investigation of the alleged  
9 public offense or for the purposes of providing the victim or witness with  
10 information about federal visas designed to protect individuals providing  
11 assistance to law enforcement.

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

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

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

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

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

- 1        ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO  
2 READ AS FOLLOWS:  
3        *Sections 1 and 2 of this Act may be cited as the Federal Immigration Cooperation Act*  
4        *of 2020.*