

HOUSE BILL No. 2771

By Committee on Federal and State Affairs

Requested by Ed Klumpp

2-10

1 AN ACT concerning enforcement of United States immigration and
2 enforcement detainers by a county sheriff operating a county jail;
3 requiring municipal insurance pools to provide coverage of law
4 enforcement agencies enforcing federal law; requiring the state to pay
5 certain judgments in federal civil action and provide legal
6 representation by the attorney general; updating the interlocal
7 cooperation act; amending K.S.A. 12-2904 and repealing the existing
8 section.
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10 *Be it enacted by the Legislature of the State of Kansas:*
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12 New Section 1. (a) Any sheriff operating a jail pursuant to K.S.A. 19-
13 1901, and amendments thereto, has authority to detain a person with:
14 (1) A facially sufficient immigration detainer request issued by the
15 United States immigration and customs enforcement (ICE) on form I-247A
16 to 48 hours without criminal charges for the purpose of transferring
17 custody to the United States immigration and customs enforcement; or
18 (2) a warrant as described in subsection (c).
19

20 (b) An immigration detainer request form I-247A presented to a jail
21 as provided in subsection (a)(1) is deemed facially sufficient if either of
22 the following applies:
23

24 (1) The United States immigration and customs enforcement official
25 form I-247A presented to law enforcement;
26

27 (A) Clearly states the identity of the person to be detained;
28 (B) has box 1, statement of probable cause, or box 2, transfer of
29 custody, completed; and
30 (C) is signed by the federal immigration official; or
31

32 (2) the United States immigration and customs enforcement form I-
33 247A meets the requirement of subsections (b)(1)(A) and (C) but not
34 subsection (c)(1)(B) and is supported by a signed warrant as described in
35 subsection (d) or other affidavit or official documentation provided to law
enforcement stating the United States immigration and customs
enforcement has probable cause to believe that the person to be detained is
a removable alien under federal immigration law and United States
immigration and customs enforcement.

Proposed Amendments to
House Bill No. 2771
House Committee on Federal and State Affairs
Prepared by Office of Revisor of Statutes

1 cooperation with federal agencies to the same extent of the coverage for
 2 enforcing state and local law regardless of whether the cooperation is
 3 under a written agreement and whether the officers involved are deputized
 4 by the federal agency. If the United States department of justice or the
 5 Kansas office of the attorney general does not provide legal representation
 6 in an action against the covered local law enforcement agency, the
 7 municipal insurance pool coverage shall provide the legal representation.
 8 The municipal insurance pool may also provide legal representation to
 9 protect its interest in a case in which the United States department of
 10 justice or the Kansas office of the attorney general is providing legal
 11 representation.

12 New Sec. 3. In any federal civil action against a law enforcement
 13 agency or an officer working under an agreement with the United States
 14 immigration and customs enforcement for a 287g program authorized by 8
 15 U.S.C. § 1357(e), if a judgement is rendered against such agency or such
 16 officer of the agency, the state shall pay the judgement costs or any portion
 17 thereof that the United States department of justice has failed to cover if
 18 the agency or officer was acting in good faith.

19 New Sec. 4. (a) If a civil action is brought against a law enforcement
 20 agency that has entered into an ICE 287(e) agreement or an officer of such
 21 law enforcement agency who has been deputized under an ICE 287(g)
 22 agreement and such law enforcement agency or officer was acting in good
 23 faith under the terms of an ICE 287(g) agreement, the attorney general
 24 shall represent or provide representation of the law enforcement agency
 25 and officer in federal litigation.

26 (b) If a habeas corpus action is filed against an agency acting in good
 27 faith to hold a person under authority of an ICE detainer, the office of the
 28 attorney general shall provide legal representation at the habeas corpus
 29 hearing.

30 Sec. 5. K.S.A. 12-2904 is hereby amended to read as follows: 12-
 31 2904. (a) Subject to the limitations of subsection (e), any power or powers,
 32 privileges or authority exercised or capable of exercise by a public agency
 33 of this state including but not limited to those functions relating to
 34 economic development, public improvements, public utilities, police
 35 protection, public security, public safety and emergency preparedness,
 36 including but not limited to, intelligence, antiterrorism and disaster
 37 recovery, libraries, data processing services, educational services, building
 38 and related inspection services, flood control and storm water drainage,
 39 weather modification, sewage disposal, refuse disposal, park and
 40 recreational programs and facilities, ambulance service, fire protection, the
 41 Kansas tort claims act or claims for civil rights violations, may be
 42 exercised and enjoyed jointly with any other public agency of this state or
 43 with any private agency, and jointly with any public agency of any other

(a)

(b) In any state civil action, where a law enforcement officer or law enforcement agency acts in good faith under an ICE 287(e) agreement or into custody, the law enforcement officer or law enforcement agency shall be entitled to immunity for any civil liability.