

SESSION OF 2026

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2771

As Amended by House Committee on Federal
and State Affairs

Brief*

HB 2771, as amended, would create law related to immigration enforcement to allow sheriffs to detain persons subject to a facially sufficient immigration detainer request, require certain municipal insurance pools cover federally-approved immigration detainer operations conducted by a law enforcement agency, require the State to pay for certain federal civil judgment costs, require the Attorney General to represent law enforcement in certain civil lawsuits, and provide civil immunity to officers or agencies acting in good faith under a 287(g) agreement or detainer; and amend the Interlocal Cooperation Act to specify that a sheriff does not need approval of a county commission to enter into a federal 287(g) agreement with the U.S. Immigration and Customs Enforcement (ICE).

Federal Detainer Detention

Pursuant to the federal Immigration and Nationality Act (INA), ICE may issue an immigration detainer request to a county sheriff to request that the sheriff detain an individual who ICE has probable cause to believe is unlawfully present in the country and subject to removal.

The bill would authorize a sheriff operating a county jail to detain a person with:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

- A facially sufficient immigration detainer request issued by ICE on form I-247A; or
- A U.S. Department of Homeland Security (DHS) or ICE warrant.

Immigration Detainer Request

Under the bill, a form I-247A issued pursuant to the INA would allow a sheriff to hold the listed person for up to 48 hours without criminal charges for the purposes of transferring custody to ICE.

The form would be considered facially sufficient if it:

- Clearly states the identity of the person to be detained;
- Has box 1, statement of probable cause, or box 2, transfer of custody, completed; and
- Is signed by the federal immigration official.

If the form meets the identity and signature requirements but does not meet the probable cause or transfer of custody requirements, the bill would deem the form facially sufficient if it is supported by a signed warrant as described by the bill or other affidavit or official documentation provided to law enforcement stating ICE has probable cause to believe the person to be detained is a removable alien under federal immigration law enforcement of such law.

Federal Warrant

For purposes of the bill, a valid warrant would include:

- A DHS form I-200, warrant for arrest of an alien; or

- An ICE form I-205, warrant of removal, or a successor warrant or other warrant authorized by federal law.

Detention Procedure

After reviewing a form I-247A and finding it to be facially sufficient, a sheriff who has custody of the person named in the form would be required to:

- Inform the person that they are being held pursuant to an immigration detainer request issued by ICE;
- Provide a copy of the facially sufficient form I-247A to the person;
- Inform ICE that the person is in custody of the sheriff pursuant to the detainer; and
- Complete the law enforcement agency section of the form I-247A and submit such completed form to ICE.

Release

A sheriff would be required to release a person held under the bill upon:

- Receipt of a subsequent form I-247A with a checkmark in a box indicating cancellation of the detainer request;
- The passage of 48 hours from the time of detention without pending criminal charges on the ICE detainer;
- A finding that the detainer is not facially sufficient; or

- The person who is being held provides proof of U.S. citizenship or lawful immigration status.

For purposes of the bill, the term “proof of citizenship” would include:

- A birth certificate;
- A U.S. passport indicating citizenship;
- An official U.S. document showing completed naturalization of citizenship;
- A court order declaring a person’s U.S. citizenship; or
- Any other official U.S. document or the State of Kansas indicating the person is a U.S. citizen.

Municipal Insurance Pool—Local Law Enforcement Coverage

Under the bill, any municipal insurance pool that issues liability coverage for law enforcement under the Kansas Municipal Group-funded Pool Act would be required to continue such coverage and to include coverage for law enforcement operations authorized by the covered agency when enforcing federal law.

The bill would require the pool to cover such federal law enforcement operations to the same extent it covers the enforcement of state and local law, regardless of whether the federal operations are subject to a written agreement with the federal agency or whether the local law enforcement officers are deputized by the federal agency.

For actions against the covered local law enforcement agency, the bill would require the pool coverage provide legal representation. The pool would also be allowed to provide legal representation to protect its own interest in a case in

which the U.S. Department of Justice (DOJ) or the Kansas Office of the Attorney General is providing legal representation.

***Legal Representation, Immunity, Judgment Costs—
287(g) Agreement***

Under the federal INA, the U.S. Attorney General is authorized to enter into a written agreement with a state or a political subdivision of a state, commonly referred to as a 287(g) agreement, which allows officers or employees of the state or local government entity to assist with or carry out certain federal immigration enforcement actions.

Legal Representation

If a civil action is brought against a law enforcement agency that has entered into an ICE 287(g) agreement or an officer who was deputized under the agreement, and such agency or officer was acting in good faith under the terms of the agreement, the Kansas Attorney General would be required by the bill to represent or provide representation of the agency or officer in federal litigation.

Legal Representation—Habeas Action

If a person being held by an agency in good faith pursuant to an ICE detainer files a *habeas corpus* action, the Kansas Office of the Attorney General would be required to provide legal representation at the *habeas* hearing.

Immunity

The bill would specify that in any state civil action where a law enforcement officer or law enforcement agency acts in good faith under an ICE 287(g) agreement or detainer and takes a person into custody or attempts to take a person into

custody, the officer or agency would be entitled to immunity for any civil liability.

Judgment Costs

The bill would specify if a judgment is rendered against a law enforcement agency or officer in a federal civil action based on operations conducted under a 287(g) agreement, the State of Kansas would pay the judgment costs or any portion of the costs that the DOJ has failed to cover if the agency or officer was acting in good faith.

Sheriff Authority—287(g) Agreement

The bill would amend the Interlocal Cooperation Act (Act) to provide that a sheriff seeking to enter into a 287(g) agreement with ICE would be exempt from certain requirements of the Act and would be allowed to sign such agreement without authorization of the county's board of county commissioners.

Background

The bill was introduced by the House Committee on Federal and State Affairs at the request of a representative of the Kansas Sheriffs Association.

House Committee on Federal and State Affairs

In the House Committee meeting, **proponent** testimony was provided by the Ellis County Sheriff and the Sedgwick County Sheriff on behalf of the Kansas Sheriffs Association. The proponents stated the bill would clarify that sheriffs may cooperate with ICE when detaining a person subject to an ICE detainer and that the bill clarifies liability and related insurance coverage.

Written-only proponent testimony was provided by the Kansas Attorney General and a representative of the Kansas Bureau of Investigation.

Written-only **neutral** testimony was provided by Representative Fairchild which stated his support for the rule of law and concerns for 48-hour administrative holds that do not require judicial approval and deportation of individuals without a court hearing.

Opponent testimony was provided by representatives of the ACLU of Kansas, El Centro, Kansas Interfaith Action, New Frontiers, and a private citizen. The opponents stated their concerns with the expansion of ICE operations, with requiring local insurance pools to cover local agencies engaged in federal law enforcement operations, and with allowing a sheriff to enter into an ICE agreement without county commission approval.

Written-only opponent testimony was provided by representatives of Advocates for Immigrant Rights and Reconciliation, Kansas Hispanic and Latin American Affairs Commission, Latino Community Network, Voter Rights Network of Wyandotte County, and four private citizens.

The House Committee amended the bill to provide civil immunity to law enforcement agencies and officers who act in good faith pursuant to a 287(g) agreement or detainer.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have a fiscal effect on the Office of the Attorney General due to legal representation and indemnification obligations arising from cooperation with federal immigration authorities. Based on the anticipated federal civil rights and *habeas* litigation exposure, the Office estimates the need for an additional Attorney General position to manage increased

caseload, federal court appearances, dispositive motions, potential appeals, and to serve as a subject matter expert on this area of law. The estimated cost for salary and benefits would be \$133,905 in FY 2027. Additional associated operating expenditures for office space, technology, training, and related support would total \$11,657 annually for a total of \$145,562. The Office is unable to estimate the fiscal effect of the potential state obligation to pay judgment costs in federal civil actions. The bill would result in ongoing litigation-related responsibilities and expenses.

The Office of Judicial Administration indicates that any fiscal effect associated with enactment of the bill could be absorbed by the courts. Any fiscal effect associated with the bill is not reflected in *The FY 2027 Governor's Budget Report*.

The League of Kansas Municipalities (LKM) indicates that enactment of the bill could have a fiscal effect on cities, primarily through mandates on municipal insurance pools and law enforcement operations. This could increase insurance premiums, unbudgeted administrative and holding costs for detaining individuals for ICE, mandated legal representation costs via local pools, and potential liability exposure from county sheriff actions without county commission approval. However, LKM is unable to determine the exact fiscal effect.

The Kansas Association of Counties (Association) indicates enactment of the bill could increase premiums for insurance depending on the cost of additional coverage or how many claims were made. It could also expose a county to liability because the bill does not require a written agreement with a federal agency. The Association did not provide an estimate of the costs.

Immigration; detainer; sheriff; jail; municipal insurance pool; liability; Attorney General; Interlocal Cooperation Act; United States Immigration and Customs Enforcement; Kansas Municipal Group-funded Pool Act