

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.*