

A-Engrossed
House Bill 3265

Ordered by the House April 23
Including House Amendments dated April 23

Sponsored by Representatives ALONSO LEON, PHAM, Senator GORSEK, Representatives CAMPOS, VALDERRAMA; Representatives DEXTER, HUDSON, KOTEK, KROPF, MCLAIN, MEEK, NERON, POWER, REYNOLDS, RUIZ, SALINAS, SANCHEZ, WILDE, WILLIAMS, Senators FREDERICK, JAMA, MANNING JR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires that officer of law enforcement agency who arrests individual who is foreign national inform individual of consular notification procedures.] Prohibits law enforcement agency or public body from denying services, benefits, privileges or opportunities to certain individuals on basis of federal civil immigration actions, inquiring about individual's citizenship status without connection to criminal investigation or providing information about individual in custody to federal immigration authority. **Requires law enforcement agency to explain to individual committed or detained by law enforcement agency individual's right to refuse to disclose nationality, citizenship or immigration status and potential immigration consequences of refusal to disclose.**

Prohibits use of public resources to assist federal immigration enforcement. Requires public body that receives communication or request for assistance from federal immigration authority to report request or communication to *[office of Governor]* **Oregon Criminal Justice Commission**. Requires *[office of Governor]* **commission to continually** publish *[annual report]* **reports** of communications and requests received by public bodies. Requires *[office of Governor]* **Department of Justice** to establish mechanism to receive reports of certain violations.

Prohibits public body, law enforcement agency or officer from entering into specified agreements related to federal immigration enforcement.

Allows any person to bring action to enjoin law enforcement agency or public body from providing certain information to federal immigration authority *[or]*, using agency resources to enforce immigration laws **or failing to comply with other requirements**. *[Allows person injured by law enforcement agency's or public body's provision of information or use of agency resources to enforce immigration laws to bring civil action for damages. Directs court to award reasonable attorney fees to prevailing plaintiff.]*

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to immigration; creating new provisions; amending ORS 180.805 and 181A.820; and declar-
3 ing an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 6 of this 2021 Act:**

6 (1) **"Court facility"** means a building or space occupied or used by a court of this state
7 or local jurisdiction of this state, and any adjacent property including, but not limited to,
8 sidewalks, parking area, grass or landscaped area, plazas, court-related offices, commercial
9 and governmental spaces within the building or space and entrances to and exits from the
10 building or space.

11 (2) **"Federal immigration authority"** means the United States Department of Homeland
12 Security, the United States Immigration and Customs Enforcement, the United States Citi-
13 zenship and Immigration Services, the United States Customs and Border Protection or a
14 successor agency, any other federal immigration agency or official, or any other entity to

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 which a federal immigration agency delegates or assigns the authority to detect, investigate
2 or enforce violations of immigration law.

3 (3) "Immigration enforcement" means any activity that has as a purpose the apprehen-
4 sion or identification of an individual in order to:

5 (a) Subject the individual to civil immigration arrest, civil immigration detention, re-
6 moval or deportation proceedings or removal or deportation from the United States; or

7 (b) Criminally prosecute the individual for offenses related to federal laws regarding im-
8 migration status.

9 (4) "Law enforcement agency" means:

10 (a) County sheriffs, municipal police departments, police departments established by a
11 university under ORS 352.121 or 353.125;

12 (b) The Oregon State Police; and

13 (c) Corrections officers.

14 (5) "Officer" means an individual employed or contracted as an officer of a law enforce-
15 ment agency whether or not the individual is on duty.

16 (6) "Public body" has the meaning given that term in ORS 174.109.

17 **SECTION 2.** (1) A law enforcement agency or public body may not:

18 (a) Except as required by state or federal law, deny services, benefits, privileges or op-
19 portunities to an individual in custody, or on parole, probation or post-prison supervision,
20 on the basis of known or suspected immigration status, the existence of an immigration
21 detainer, hold, notification or other related federal immigration request or a civil immi-
22 gration warrant.

23 (b) Inquire into or collect information about an individual's immigration or citizenship
24 status or country of birth unless:

25 (A) The information is required to advance an investigation into a violation of state or
26 local criminal law;

27 (B) The information is submitted to a court of this state, whether orally or in writing,
28 in connection with a proceeding in that court; or

29 (C) As necessary to determine the individual's eligibility for a benefit that the individual
30 is seeking; or

31 (c) Provide information about an individual in the custody of the public body or law
32 enforcement agency to a federal immigration authority for the purpose of civil immigration
33 enforcement, except:

34 (A) As may be required by a judicial subpoena issued as part of a court proceeding or by
35 another compulsory court-issued legal process; or

36 (B) To the extent that the information is available to the general public and under the
37 same terms and conditions as the information is available to the general public.

38 (2) For purposes of subsection (1)(c)(A) of this section, a judicial subpoena does not in-
39 clude an administrative subpoena created and signed by a federal immigration authority.

40 (3) To ensure compliance with all treaty obligations, including consular notification, and
41 state and federal laws, on the commitment or detainment of an individual, a law enforcement
42 agency shall explain to the individual in writing, with interpretation into another language
43 if requested:

44 (a) The individual's right to refuse to disclose the individual's nationality, citizenship or
45 immigration status; and

1 (b) That disclosure of the individual's nationality, citizenship or immigration status may
2 result in civil or criminal immigration enforcement, including removal from the United
3 States.

4 (4) Any person may bring a civil action against a law enforcement agency or public body
5 that violates subsections (1) to (3) of this section to enjoin the violation.

6 **SECTION 3.** (1) Public facilities, property, moneys, equipment, technology or personnel
7 may not be used for the purpose of investigating, detecting, apprehending, arresting, de-
8 taining or holding individuals for immigration enforcement.

9 (2) Actions with a purpose described in subsection (1) of this section include, but are not
10 limited to, the following:

11 (a) Granting a federal immigration agency access to an area of a facility that is not
12 normally open to the public.

13 (b) Supporting or assisting a federal agency in immigration enforcement, including but
14 not limited to any of the following:

15 (A) Providing information, including but not limited to an individual's contact informa-
16 tion, country of birth, custody status, release date, parole, probation or post-prison super-
17 vision appointment dates or times, or home or work address, except as provided in section
18 2 of this 2021 Act;

19 (B) Investigating or interrogating individuals for immigration enforcement; or

20 (C) Establishing traffic perimeters for the purpose of supporting or facilitating immi-
21 gration enforcement.

22 (3)(a) If a public body receives a communication or request from a federal agency that
23 relates to immigration enforcement, other than a judicial subpoena described in section 2
24 (1)(c)(A) of this 2021 Act, the public body shall decline the request and document the com-
25 munication or request. The documentation described in this subsection must be provided to
26 the director or other similar management personnel of the public body.

27 (b) The public body shall submit the information documented under this subsection to the
28 Oregon Criminal Justice Commission pursuant to procedures established by the commission.
29 The commission shall require at least monthly submission of the information described in
30 this subsection.

31 (c) A public body shall adopt internal procedures to carry out this subsection.

32 (4)(a) The commission shall publish and continually update, on a website operated by or
33 on behalf of the commission, an entry for each communication or request described in sub-
34 section (3) of this section, the public body that received the communication or request, the
35 federal agency involved in the communication or that made the request and a summary of
36 the public body's response to the communication or request.

37 (b) The information contained on the website described in this subsection may not con-
38 tain any personally identifiable information of the individuals involved in the communication
39 or request, including of an individual targeted by federal immigration authorities, an indi-
40 vidual who reported the communication or request, an individual who witnessed the com-
41 munication or request or report of the communication or request or the family members of
42 an individual described in this paragraph.

43 (c)(A) Information obtained by the commission under this subsection may be used only
44 for statistical purposes and coordination with the sanctuary violation reporting mechanism
45 established under section 4 of this 2021 Act.

1 (B) Information described in this subsection that may reveal the identity of an individual
2 described in paragraph (b) of this subsection is exempt from disclosure under ORS 192.311
3 to 192.478.

4 (C) Pursuant to a request from the Department of Justice, the commission may release
5 to the department information described in this subsection that is necessary to investigate
6 a report made to the sanctuary violation reporting mechanism established under section 4
7 of this 2021 Act if the information is used to support an individual described in paragraph (b)
8 of this subsection.

9 (d) Not later than July 1, 2022, and at least annually thereafter, the commission shall
10 issue a report that summarizes the information reported to the commission and published
11 on the website described in this subsection. The commission shall provide the report to the
12 Governor, the Legislative Assembly, the district attorneys of this state, the Department of
13 State Police, each law enforcement agency in this state and the Department of Public Safety
14 Standards and Training.

15 (5) Any person may bring a civil action against a law enforcement agency or public body
16 that violates subsection (1) of this section to enjoin the violation.

17 **SECTION 4.** (1) The Department of Justice shall establish a sanctuary violation reporting
18 mechanism to receive reports of alleged violations of sections 2 and 3 of this 2021 Act and
19 ORS 180.805 and 181A.820. The sanctuary violation reporting mechanism must include a
20 staffed telephone hotline and an online system that allows for electronic reporting.

21 (2) The sanctuary violation reporting mechanism must:

22 (a) Be coordinated with the Oregon Criminal Justice Commission to develop a standard-
23 ized intake process for reports made through the hotline or online system;

24 (b) Collect all data possible regarding agencies, personnel, locations and individuals in-
25 volved with violations reported through the hotline or online system;

26 (c) Provide culturally competent assistance, referrals and resources to an individual
27 targeted by a violation reported through the hotline or online system, and ensure that the
28 assistance, referrals and resources are designed to reduce the effects of trauma and prevent
29 further trauma; and

30 (d) Coordinate with local organizations and service providers to assist individuals tar-
31 geted by violations reported through the hotline or online system and families of those indi-
32 viduals.

33 (3) The department, in coordination with the commission, shall publish and continually
34 update, on a website operated by or on behalf of the department:

35 (a) The number of complaints received by the mechanism established under subsection
36 (1) of this section; and

37 (b) An entry for each complaint, including the alleged violation, the federal agency im-
38 plicated in the complaint and public bodies or agencies involved in the incident and the re-
39 sponse of the public bodies and agencies.

40 (4) The information contained on the website described in subsection (3) of this section
41 may not contain any personally identifiable information of the individuals involved in the
42 incident on which the complaint is based.

43 (5) Information and data obtained under this section:

44 (a) May be used only for the purposes described in this section; and

45 (b) Is exempt from public disclosure under ORS 192.311 to 192.478 if the information may

1 reveal the identity of an individual involved in an incident on which a complaint reported to
2 the sanctuary violation reporting mechanism is based.

3 **SECTION 5.** (1) An individual may not be subject to civil arrest without a judicial warrant
4 or judicial order when the individual is in a court facility.

5 (2) An individual who, in good faith, is attending a court proceeding in which the indi-
6 vidual is a party or potential witness, or family or household member of a party or potential
7 witness, may not be subject to civil arrest while going to, remaining at or returning from
8 the court proceeding, unless the civil arrest is supported by a judicial warrant or judicial
9 order that authorizes the civil arrest.

10 (3) Any person may bring a civil action against a law enforcement agency or public body
11 that violates this section to enjoin the violation.

12 **SECTION 6.** (1) A public body, law enforcement agency or an officer of a law enforcement
13 agency may not enter into or renew an agreement, contract, memorandum of understanding
14 or other arrangement that authorizes the public body, law enforcement agency or officer to
15 exercise federal immigration enforcement powers, including those powers specified in 8
16 U.S.C. 1357(g), or that otherwise permits the public body, law enforcement agency or officer
17 to detain or house individuals for federal civil immigration violations.

18 (2) A public body or law enforcement agency may not enter into or renew an agreement,
19 contract, memorandum of understanding or other arrangement under which the public body
20 or law enforcement agency detains or houses individuals who are in the custody of a federal
21 immigration authority for violations of federal immigration law.

22 (3) A person may not operate a private immigration detention facility within this state.

23 (4) Any person may bring a civil action against a law enforcement agency or public body
24 that violates this section to enjoin the violation.

25 **SECTION 7.** Section 6 of this 2021 Act applies to agreements, contracts, memoranda of
26 understanding or other arrangements entered into or renewed on or after the effective date
27 of this 2021 Act.

28 **SECTION 8.** ORS 180.805 is amended to read:

29 180.805. (1) As used in this section:

30 (a) "Federal immigration authority" means the United States Department of Homeland
31 Security, the United States Immigration and Customs Enforcement, the United States Citi-
32 zenship and Immigration Services, the United States Customs and Border Protection or a
33 successor agency, any other federal immigration agency or official, or any other entity to
34 which a federal immigration agency delegates or assigns the authority to detect, investigate
35 or enforce violations of immigration law.

36 (b) "Information concerning a person's citizenship or immigration status" means infor-
37 mation about whether a person is a citizen of the United States or has lawful authority to
38 be present in the United States, either through a visa, a green card or another official doc-
39 umentation. The term does not include information consisting of a person's address, location,
40 contact information, relatives, associates or other information that could lead to the de-
41 tection or apprehension of the person.

42 (c) "Public body" has the meaning given that term in ORS 174.109.

43 (d) "Social media" has the meaning given that term in ORS 659A.330.

44 [(1)] (2) Except as required by state or federal law, a public body may not disclose, for the
45 purpose of enforcement of federal immigration laws, the following information concerning any per-

1 son, whether current or otherwise:

2 (a) The person's address;

3 (b) The person's workplace or hours of work;

4 (c) The person's school or school hours;

5 (d) The person's contact information, including telephone number, electronic mail address or
6 social media account information;

7 (e) The identity of known associates or relatives of the person;

8 (f) The date, time or location of the person's hearings, proceedings or appointments with the
9 public body that are not matters of public record; or

10 (g) Information described in paragraphs (a) through (f) of this subsection with respect to known
11 relatives or associates of the person.

12 [(2)] (3) Except as required by state or federal law, or as necessary to determine eligibility for
13 a benefit a person is seeking, a public body may not inquire about or request information concerning
14 a person's citizenship or immigration status.

15 [(3)(a)] (4)(a) If a public body collects information concerning a person's citizenship or immi-
16 gration status, the public body [may] shall decline to disclose the information unless disclosure is
17 required by:

18 (A) State or federal law;

19 (B) A court order; or

20 (C) A warrant authorized by a court.

21 (b) Nothing in this subsection:

22 (A) Prevents a person from obtaining records about the person or the person's dependents from
23 a public body; or

24 (B) Authorizes a public body to withhold aggregated information that is not personally identifi-
25 able.

26 [(4)] (5) A public body shall, within six months of August 15, 2017, and every year thereafter,
27 review the public body's confidentiality policies to ensure that the public body treats information
28 concerning a person's citizenship or immigration status, and information described in subsection
29 [(1)] (2) of this section, in a manner consistent with this section and ORS 180.810.

30 [(5) *Nothing in this section prohibits any public body from complying with a federal immigration
31 authority as required by federal law.*]

32 [(6) *As used in this section:*]

33 [(a) *"Federal immigration authority" means the United States Department of Homeland Security,
34 the United States Immigration and Customs Enforcement, the United States Citizenship and Immi-
35 gration Services or a successor agency, any other federal immigration agency or official, or any other
36 entity to which a federal immigration agency delegates or assigns the authority to detect, investigate
37 or enforce violations of immigration law.*]

38 [(b) *"Information concerning a person's citizenship or immigration status" means information about
39 whether a person is a citizen of the United States or has lawful authority to be present in the United
40 States, either through a visa, a green card or another official documentation. The term does not include
41 information consisting of a person's address, location, contact information, relatives, associates or other
42 information that could lead to the detection or apprehension of the person.*]

43 [(c) *"Public body" has the meaning given that term in ORS 174.109.*]

44 [(d) *"Social media" has the meaning given that term in ORS 659A.330.*]

45 (6) **Any person may bring a civil action against a law enforcement agency or public body**

1 **that violates subsection (2) or (3) of this section to enjoin the violation.**

2 **SECTION 9.** ORS 181A.820 is amended to read:

3 181A.820. (1) **As used in this section:**

4 (a) **“Federal immigration authority” has the meaning given that term in ORS 180.805.**

5 (b) **“Warrant of arrest” has the meaning given that term in ORS 131.005.**

6 [(1)] (2) [No] **A law enforcement agency [of the State of Oregon or of any political subdivision of**
7 *the state shall] may not* use agency moneys, equipment or personnel for the purpose of detecting
8 or apprehending persons [*whose only violation of law is that they are persons of foreign citizenship*
9 *present in the United States in violation of]* **for the purpose of enforcing** federal immigration laws.

10 **(3) A law enforcement agency may not enter into a formal or informal agreement with**
11 **a federal immigration authority relating to the detention of a person described in subsection**
12 **(2) of this section.**

13 [(2)] (4) Notwithstanding subsection [(1)] (2) of this section, a law enforcement agency may ex-
14 change information with [*United States Immigration and Customs Enforcement, United States Citi-*
15 *zenship and Immigration Services and United States Customs and Border Protection]* **a federal**
16 **immigration authority** in order to[:]

17 [(a) *Verify the immigration status of a person if the person is arrested for any criminal offense;*
18 *or]*

19 [(b)] request criminal investigation information with reference to persons named in records of
20 [*United States Immigration and Customs Enforcement, United States Citizenship and Immigration*
21 *Services or United States Customs and Border Protection]* **the federal immigration authority.**

22 [(3)] (5) Notwithstanding subsection [(1)] (2) of this section, a law enforcement agency may ar-
23 rest any person who:

24 (a) Is charged by the United States with a criminal violation of federal immigration laws under
25 Title II of the Immigration and Nationality Act or 18 U.S.C. 1015, 1422 to 1429 or 1505; and

26 (b) Is subject to arrest for the crime pursuant to a warrant of arrest issued by a federal
27 magistrate.

28 **(6) Any person may bring a civil action against a law enforcement agency that violates**
29 **subsection (2) or (3) of this section to enjoin the violation.**

30 [(4)] (7) For purposes of subsection [(1)] (2) or (3) of this section, the Bureau of Labor and In-
31 dustries is not a law enforcement agency.

32 [(5) *As used in this section, “warrant of arrest” has the meaning given that term in ORS*
33 *131.005.*]

34 **SECTION 10.** **This 2021 Act being necessary for the immediate preservation of the public**
35 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
36 **on its passage.**

37