

House Bill 3265

Sponsored by Representatives ALONSO LEON, PHAM, Senator GORSEK; Representatives CAMPOS, KOTEK, MEEK, SALINAS, 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 **as introduced**.

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.

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. Requires office of Governor to publish annual report of communications and requests received by public bodies. Requires office of Governor 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. 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:**

SECTION 1. As used in sections 1 to 7 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**
15 **which a federal immigration agency delegates or assigns the authority to detect, investigate**
16 **or enforce violations of immigration law.**

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

19 (a) **Subject the individual to civil immigration detention, removal or deportation pro-**
20 **ceedings or removal or deportation from the United States; or**

21 (b) **Criminally prosecute the individual for offenses related to federal laws regarding im-**

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 migration status.

2 (4) "Law enforcement agency" means:

3 (a) County sheriffs, municipal police departments, police departments established by a
4 university under ORS 352.121 or 353.125; and

5 (b) The Oregon State Police.

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

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

9 **SECTION 2.** (1)(a) If an officer of a law enforcement agency arrests an individual who the
10 officer or law enforcement agency knows or has reason to know is a foreign national, the
11 officer shall inform the individual that, except as provided in subsection (2)(a) of this section,
12 the individual's consular official will be notified of the arrest.

13 (b) The officer must also inform the individual that the disclosure of information relating
14 to the individual's nationality, citizenship or immigration status may result in civil or crim-
15 inal immigration enforcement, including removal from the United States.

16 (c) All information provided to the individual under this section must be provided in
17 writing in English and any other commonly spoken languages in Oregon.

18 (2)(a) If the individual is a citizen of a country that does not require consular notifica-
19 tion, the officer may not inform the individual's consular official of the arrest unless the
20 individual requests such notification.

21 (b) If the individual is a citizen of a country that has entered into a treaty with the
22 United States to require consular notification, the officer shall inform the individual of the
23 treaty and shall notify the individual's consular official without delay.

24 **SECTION 3.** A law enforcement agency or public body may not:

25 (1) Except as required by state or federal law, deny services, benefits, privileges or op-
26 portunities to an individual in custody, or on parole, probation or post-prison supervision,
27 on the basis that the individual has an immigration detainer, hold or notification request or
28 a civil immigration warrant.

29 (2) Inquire into or collect information about an individual's immigration or citizenship
30 status or place of birth unless there is a connection between the information and an inves-
31 tigation into a violation of state or local criminal law.

32 (3) Provide information about an individual in the custody of the public body or law
33 enforcement agency to a federal immigration authority for the purpose of civil immigration
34 enforcement.

35 **SECTION 4.** (1) Public facilities, property, moneys, equipment, technology or personnel
36 may not be used for the purpose of investigating, detecting, apprehending, arresting, de-
37 taining or holding for immigration enforcement an individual or individuals of foreign citi-
38 zenship present in the United States.

39 (2) The following are considered to be actions with a purpose described in subsection (1)
40 of this section:

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

43 (b) Supporting or assisting, directly or indirectly, a federal agency in immigration
44 enforcement, including but not limited to any of the following:

45 (A) Providing information, including but not limited to an individual's contact informa-

1 tion, country of birth, custody status, release date, parole, probation or post-prison super-
 2 vision appointment dates or times, or home or work address;

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

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

6 (3)(a) If a public body receives a request or communication from a federal agency that
 7 relates to immigration enforcement, the public body shall decline the request and document
 8 the communication or request. The documentation described in this subsection must be
 9 provided to the director or other similar management personnel of the public body.

10 (b) The public body shall submit the information documented under this subsection to the
 11 office of the Governor pursuant to procedures established by the office of the Governor.

12 (c) A public body may adopt internal procedures to carry out this subsection.

13 (4)(a) The office of the Governor shall annually publish a report, on a website operated
 14 by or on behalf of the office, of the information received from public bodies under subsection
 15 (3) of this section. The report must include an entry for each communication or request de-
 16 scribed in subsection (3) of this section, the public body that reported the communication
 17 or request, the federal agency involved in the communication or that made the request and
 18 a summary of the public body's response to the communication or request.

19 (b) The information contained in the report described in this subsection may not contain
 20 any personally identifiable information of the individuals involved in the communication or
 21 request.

22 **SECTION 5.** (1) The office of the Governor shall establish a mechanism to receive reports
 23 of alleged violations of sections 2 to 4 of this 2021 Act and ORS 180.805 and 181A.820. The
 24 mechanism must include a telephone hotline and an online system that allows for electronic
 25 reporting. The office of the Governor may contract with a community-based organization for
 26 the operation of the reporting mechanism described in this subsection.

27 (2) The office of the Governor shall designate at least one full-time staff person to in-
 28 vestigate complaints received through the reporting mechanism.

29 (3) The office of the Governor shall publish a monthly report, on a website operated by
 30 or on behalf of the office, that includes:

31 (a) The number of complaints received;

32 (b) A description of each complaint, including the alleged violation and the federal agency
 33 implicated in the complaint;

34 (c) The status and conclusions of any investigations taken pursuant to a complaint re-
 35 ported, including but not limited to the content of any communication between a public body
 36 and a federal agency and any conduct determined to be in violation of sections 2 to 4 of this
 37 2021 Act and ORS 180.805 and 181A.820; and

38 (d) A description of any actions taken as a result of an investigation into a complaint.

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

42 **SECTION 6.** (1) An individual may not be subject to civil arrest without a judicial warrant
 43 or judicial order when the individual is in a court facility.

44 (2) An individual who, in good faith, is attending a court proceeding in which the indi-
 45 vidual is a party or potential witness, or family or household member of a party or potential

1 witness, may not be subject to civil arrest while going to, remaining at or returning from
 2 the court proceeding, unless the civil arrest is supported by a judicial warrant or judicial
 3 order that authorizes the civil arrest.

4 **SECTION 7. (1) A public body, law enforcement agency or an officer of a law enforcement**
 5 **agency may not enter into or renew an agreement, contract, memorandum of understanding**
 6 **or other arrangement that authorizes the public body, law enforcement agency or officer to**
 7 **exercise federal immigration enforcement powers, including those powers specified in 8**
 8 **U.S.C. 1357(g), or that otherwise permits the public body, law enforcement agency or officer**
 9 **to detain or house individuals for federal civil immigration violations.**

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

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

15 **SECTION 8. Section 7 of this 2021 Act applies to agreements, contracts, memoranda of**
 16 **understanding or other arrangements entered into or renewed on or after the effective date**
 17 **of this 2021 Act.**

18 **SECTION 9. ORS 180.805 is amended to read:**

19 **180.805. (1) As used in this section:**

20 **(a) “Federal immigration authority” means the United States Department of Homeland**
 21 **Security, the United States Immigration and Customs Enforcement, the United States Citi-**
 22 **zenship and Immigration Services, the United States Customs and Border Protection or a**
 23 **successor agency, any other federal immigration agency or official, or any other entity to**
 24 **which a federal immigration agency delegates or assigns the authority to detect, investigate**
 25 **or enforce violations of immigration law.**

26 **(b) “Information concerning a person’s citizenship or immigration status” means infor-**
 27 **mation about whether a person is a citizen of the United States or has lawful authority to**
 28 **be present in the United States, either through a visa, a green card or another official docu-**
 29 **mentation. The term does not include information consisting of a person’s address, location,**
 30 **contact information, relatives, associates or other information that could lead to the de-**
 31 **tection or apprehension of the person.**

32 **(c) “Public body” has the meaning given that term in ORS 174.109.**

33 **(d) “Social media” has the meaning given that term in ORS 659A.330.**

34 **[(1)] (2) Except as required by state or federal law, a public body may not disclose, for the**
 35 **purpose of enforcement of federal immigration laws, the following information concerning any per-**
 36 **son, whether current or otherwise:**

37 **(a) The person’s address;**

38 **(b) The person’s workplace or hours of work;**

39 **(c) The person’s school or school hours;**

40 **(d) The person’s contact information, including telephone number, electronic mail address or**
 41 **social media account information;**

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

43 **(f) The date, time or location of the person’s hearings, proceedings or appointments with the**
 44 **public body that are not matters of public record; or**

45 **(g) Information described in paragraphs (a) through (f) of this subsection with respect to known**

1 relatives or associates of the person.

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

5 [(3)(a)] (4)(a) If a public body collects information concerning a person’s citizenship or immi-
 6 gration status, the public body may decline to disclose the information unless disclosure is required
 7 by:

8 (A) State or federal law;

9 (B) A court order; or

10 (C) A warrant authorized by a court.

11 (b) Nothing in this subsection:

12 (A) Prevents a person from obtaining records about the person or the person’s dependents from
 13 a public body; or

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

16 [(4)] (5) A public body shall, within six months of August 15, 2017, and every year thereafter,
 17 review the public body’s confidentiality policies to ensure that the public body treats information
 18 concerning a person’s citizenship or immigration status, and information described in subsection
 19 [(1)] (2) of this section, in a manner consistent with this section and ORS 180.810.

20 [(5)] (6) Nothing in this section prohibits any public body from complying with a federal immi-
 21 gration authority as required by federal law.

22 [(6) As used in this section:]

23 [(a) “Federal immigration authority” means the United States Department of Homeland Security,
 24 the United States Immigration and Customs Enforcement, the United States Citizenship and Immi-
 25 gration Services or a successor agency, any other federal immigration agency or official, or any other
 26 entity to which a federal immigration agency delegates or assigns the authority to detect, investigate
 27 or enforce violations of immigration law.]

28 [(b) “Information concerning a person’s citizenship or immigration status” means information about
 29 whether a person is a citizen of the United States or has lawful authority to be present in the United
 30 States, either through a visa, a green card or another official documentation. The term does not include
 31 information consisting of a person’s address, location, contact information, relatives, associates or other
 32 information that could lead to the detection or apprehension of the person.]

33 [(c) “Public body” has the meaning given that term in ORS 174.109.]

34 [(d) “Social media” has the meaning given that term in ORS 659A.330.]

35 (7)(a) **Any person may bring a civil action against a law enforcement agency or public
 36 body that violates subsection (2) or (3) of this section to enjoin the violation.**

37 (b) **A person injured by a violation of subsection (2) or (3) of this section may also bring
 38 a civil action against the law enforcement agency or public body to recover damages.**

39 (c) **If an injunction is granted or damages are awarded under this subsection, the court
 40 shall award the plaintiff reasonable attorney fees and costs, at trial and on appeal.**

41 **SECTION 10.** ORS 181A.820 is amended to read:

42 **181A.820. (1) As used in this section:**

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

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

45 [(1)] (2) [No] **A law enforcement agency [of the State of Oregon or of any political subdivision of**

1 *the state shall*] **may not** use agency moneys, equipment or personnel for the purpose of detecting
 2 or apprehending persons whose only violation of law is that they are persons of foreign citizenship
 3 present in the United States in violation of federal immigration laws.

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

7 [(2)] (4) Notwithstanding subsection [(1)] (2) of this section, a law enforcement agency may ex-
 8 change information with [*United States Immigration and Customs Enforcement, United States Citi-*
 9 *zenship and Immigration Services and United States Customs and Border Protection*] **a federal**
 10 **immigration authority** in order to[:]

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

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

16 [(3)] (5) Notwithstanding subsection [(1)] (2) of this section, a law enforcement agency may ar-
 17 rest any person who:

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

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

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

24 **(b) A person injured by a violation of subsection (2) or (3) of this section may also bring**
 25 **a civil action against the law enforcement agency to recover damages.**

26 **(c) If an injunction is granted or damages are awarded under this subsection, the court**
 27 **shall award the plaintiff reasonable attorney fees and costs, at trial and on appeal.**

28 [(4)] (7) For purposes of subsection [(1)] (2) or (3) of this section, the Bureau of Labor and In-
 29 dustries is not a law enforcement agency.

30 [(5) *As used in this section, "warrant of arrest" has the meaning given that term in ORS*
 31 *131.005.*]

32 **SECTION 11. This 2021 Act being necessary for the immediate preservation of the public**
 33 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
 34 **on its passage.**