HB376

USLMGDX-1

By Representatives Yarbrough, Harrison, Butler, Whorton, Kiel, Pettus, Underwood, Treadaway

RFD: Public Safety and Homeland Security

First Read: 21-Mar-24

SYNOPSIS:

Under existing law, the Attorney General may enter into a memorandum of agreement with the United States Department of Homeland Security concerning the enforcement of federal immigration laws, detentions and removals, and related investigations in this state by certain state law enforcement officers as designated by the Attorney General.

This bill would provide that state and local law enforcement agencies may enter into memorandums of understanding and agreements with the United States Department of Justice, the Department of Homeland Security, and any other federal agency for the purpose of enforcing federal immigration and customs laws and the detention, removal, and investigation of illegal aliens and the immigration status of any person in this state.

This bill would require state and local government employees to send, receive, and maintain information relating to the immigration status of any individual as required for public safety purposes.

This bill would allow state and local law enforcement officers to transport an illegal alien to the custody of the federal government.

This bill would allow state and local law

enforcement officers to arrest an illegal alien based on his or her status as an illegal alien or for a violation of any federal immigration law.

This bill would provide for penalties for noncompliance.

This bill would provide for standard procedures for intake and booking of illegal aliens and foreign nationals in county and municipal jails and would provide for penalties for violations.

This bill would require county and municipal jails to honor immigration detainer requests issued by the Department of Homeland Security in certain circumstances.

This bill would also require quarterly reports by county and municipal jails regarding foreign nationals.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds

within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL

TO BE ENTITLED

AN ACT

Relating to illegal immigration; to designate Sections 31-13-1 through 31-13-35 as Article 1 of Chapter 13 of Title 31, Code of Alabama 1975; to add Article 2, commencing with Section 31-13-50, to Chapter 13 of Title 31, Code of Alabama 1975; to create the Laken Riley Act; to allow state and local law enforcement agencies to enter into memorandums of understanding and agreements with federal agencies to enforce federal immigration laws; to provide for procedures involving the arrest, detention, and transportation of illegal aliens; to provide for standard procedures for intake and booking of illegal aliens and foreign nationals in county and municipal jails; to require county and municipal jails to honor immigration detainer requests in certain circumstances; to require county and municipal jails to make quarterly reports regarding foreign nationals; to provide for penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased

expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Laken Riley Act.

Section 2. Sections 31-13-1 through 31-13-35 of Chapter 13 of Title 31, Code of Alabama 1975, are designated as Article 1.

Section 3. Article 2, commencing with Section 31-13-50, is added to Chapter 13, Code of Alabama 1975, to read as follows:

Article 2.

§31-13-50

As used in this article, the following words have the following meanings:

(1) FOREIGN NATIONAL. An individual who is not a citizen of the United States.

(2) ICE. United States Immigration and Customs Enforcement Division of the Department of Homeland Security.

(3) ILLEGAL ALIEN. An individual who is present in the United States in violation of the federal Immigration and Nationality Act.

(4) IMMIGRATION DETAINER REQUEST. A federal government request to a local entity to maintain temporary custody of an alien, including a United States Department of Homeland Security Form I-247 document or a similar successor form.

(5) JAIL STAFF or JAIL STAFF MEMBER. Any employee of a county or municipal jail, including, but not limited to, a

corrections officer, deputy assigned to a jail, a jailer, and administrative support staff.

(6) LESC. The Law Enforcement Support Center of the United States Department of Homeland Security.

§31-13-51

(a) State and local law enforcement agencies may enter into memorandums of understanding and agreements with the United States Department of Justice, Department of Homeland Security, and any other federal agency for the purpose of enforcing federal immigration and customs laws and the detention, removal, and investigation of illegal aliens and the immigration status of any person in this state. A law enforcement officer acting within the scope of his or her authority under any memorandum of understanding, agreement, or other authorization from the federal government may arrest, with probable cause, any individual suspected of being an illegal alien.

(b) To the extent authorized by federal law, state and local government employees, including law enforcement officers and prosecuting attorneys, shall send, receive, and maintain information relating to the immigration status of any individual as reasonably needed for public safety purposes.

(c) Except as provided by federal law, no state or local agency or department shall be prohibited from utilizing available federal resources, including databases, equipment, grant funds, training, or participation in incentive programs, for any public safety purpose relating to the enforcement of state and federal immigration laws.

(d) When reasonably possible, applicable state agencies shall consider incentive programs and grant funding for the purpose of assisting and encouraging state and local agencies and departments to enter into agreements with federal entities and to utilize federal resources consistent with this section.

(e) If a state or local law enforcement officer has verification that a person is an illegal alien, the officer may securely transport the illegal alien to a federal facility in the state or any other temporary point of detention and may reasonably detain the illegal alien when authorized by federal law.

(f) Nothing in this section shall be construed to hinder or prevent a law enforcement officer or law enforcement agency from arresting or detaining any criminal suspect on other criminal charges.

(g) When authorized by federal law, a state or local law enforcement officer may arrest any individual based on the individual's status as an illegal alien or for a violation of any federal immigration law.

(h) If, in the judgment of the Attorney General, an official, agency of this state, or any political subdivision thereof is in violation of this section, the Attorney General shall report the violation to the Governor and the Comptroller, and that agency or political subdivision may not receive any funds, grants, or appropriations from the State of Alabama until the violation has ceased, as certified by the Attorney General. Any appeal of the determination of the Attorney General shall be appealed to the civil division of

the circuit court of the respective jurisdiction in which the alleged offending agency is located.

(i) A law enforcement officer or government official or employee shall have immunity from any damages or liability when he or she acts in good faith to enforce immigration laws pursuant to an agreement with federal authorities to collect or share immigration status information, or in the performance of any provision of this section.

§31-13-52

(a)(1) When any individual is confined, for any period, in a county or municipal jail, a reasonable effort shall be made to determine the nationality of the person so confined.

(2) In the event of a failure of communication between jail staff and an inmate as a result of language barriers, an interpreter shall be brought in to assist with the booking and identification process.

(3) If the inmate is unable to provide documentation indicating his or her lawful status, a jail staff member shall contact the LESC to determine the inmate's lawful status in the United States.

(4) If the LESC requests a jail staff member procure an immigration detainer for the inmate and the inmate is still in custody, the inmate shall not be released until after the contact is made. If the inmate has already been released prior to the notification from the LESC, the LESC shall be advised of this fact.

(5) The LESC shall automatically notify ICE of any inmate who is determined to be an illegal alien.

(6) An inmate who is suspected to be an illegal alien shall not be detained solely because of the unavailability of after-hours contact information to determine whether he or she is an illegal alien.

(7) An inmate identified as an illegal alien shall not be detained on the basis of being an illegal alien unless the LESC or ICE specifically provides written instructions for detaining the inmate as an illegal alien. The existence of an arrest warrant shall be verified with ICE within 24 hours of the placement of the immigration detainer.

(8)a. Inmates shall be held no longer than 48 hours pursuant to an immigration detainer or an immigration warrant, unless the warrant is signed by a federal judge or federal magistrate. An immigration warrant signed by any immigration official other than a federal judge or federal magistrate shall be treated as an immigration detainer. If an immigration warrant signed by a federal judge or federal magistrate is not received by the jail staff within 48 hours, or if ICE does not take custody of the inmate within 48 hours, the inmate shall be eligible for release from the custody.

b. This subdivision does not relieve the jail staff of the requirement to notify the appropriate consulate of foreign nationals.

(9) The jail staff shall maintain in each inmate's file a record of all communications with ICE.

(b)(1) When a suspected foreign national is confined, for any period, in a county or municipal jail, a reasonable effort shall be made to verify that the foreign national has

been admitted to the United States and, if lawfully admitted, that the lawful status has not expired.

(2) When a suspected foreign national is admitted into the jail, a jail staff member shall obtain at least one of the following documents from the individual to determine whether he or she has been lawfully admitted to the United States:

a. A Form I-94 Arrival/Departure Record issued by the United States Department of Homeland Security.

b. A valid, unexpired passport indicating that a visa was issued.

c. A permanent resident alien card Form 551.

d. A valid Nexus card.

e. A valid global entry identification card issued by the United States Department of Homeland Security.

f. A valid passport indicating the bearer is a citizen of a country participating in a visa waiver program administered by the United States Department of State.

(3) If a suspected foreign national does not produce a copy of one of the documents set forth in subdivision (2), or if verification of any document is required, a jail staff member shall contact the LESC or ICE for a determination of the nationality and immigration status of the suspected foreign national.

(c) If a newly admitted inmate claims to be a consular officer or to have diplomatic status and the inmate is unable to produce the proper credentials or verification of diplomatic status as required, a jail staff member shall contact the United States Department of State during its

normal working hours or the Command Center of the Office of Security of the United States Department of State outside of working hours to request verification of the inmate's status as a consular officer or of other diplomatic status. Once an inmate's status is verified as a consular officer or diplomat, he or she shall be immediately released.

(d) Nothing in this section shall be construed to deny an inmate bond or from being released from confinement when the inmate is otherwise eligible for release; provided, however, that, upon verification that any inmate confined in a jail is an illegal alien, the inmate may be detained, arrested, and transported as authorized by state and federal law.

(e)(1) It shall be unlawful for any jail staff member to violate this section.

(2) A violation of this section is a Class A misdemeanor. A second or subsequent violation of this section is a Class C felony.

§31-13-53

(a) A county or municipal jail that has custody of an inmate who is subject to an immigration detainer request issued by ICE shall:

(1) Comply with, honor, and fulfill any request made in the immigration detainer request; and

(2) Inform the inmate identified in the immigration detainer request that the inmate is being held pursuant to an immigration detainer.

(b) Subsection (a) does not apply to an inmate who has

provided proof that he or she is a citizen of the United States. Proof of citizenship may include, but is not limited to:

(1) A driver license or nondriveridentification card issued by the Alabama State Law Enforcement Agency; or

(2) A government issued identification issued by the federal government or another state.

§31-13-54

(a) A state, county, and local jail, at least quarterly, shall prepare a report to be posted on the jail's website and on the website of the Alabama State Law Enforcement Agency and shall include:

(1) The total number of inmates booked into the jail;

(2) The total number of foreign national inmates included in the total provided for in subdivision (1);

(3) The total number of inquiries made to LESC or any other federal agency inquiring about the immigration status or prior arrests of foreign national inmates;

(4) The total number of responses from any inquiry under subdivision (3);

(5) The total number of responses as provided for in subdivision (4) that indicate a foreign national inmate to be unlawfully within the United States;

(6) Any information about the inmate's lawful entry into the United States, including the date of entry and visa type if the length of the inmate's stay in the United States is not authorized by his or her visa;

(7) The number of immigration detainers issued by the

United States Immigration and Customs Enforcement Division of the Department of Homeland Security for inmates in the jail; and

(8) A statement by the sheriff, chief of police, or his or her designee verifying that all requirements of Section 31-13-52 have been complied with and that the jail is in compliance with all applicable laws.

Section 4. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 5. This act shall become effective on June 1, 2024.