

114TH CONGRESS
2D SESSION

H. R. 5826

To clarify the authority of the Secretary of Homeland Security with respect to detainers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. BRAT introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To clarify the authority of the Secretary of Homeland Security with respect to detainers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Detain and Deport
5 Act”.

6 **SEC. 2. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

7 (a) IN GENERAL.—Except as otherwise provided by
8 Federal law or rule of procedure, the Secretary shall exe-
9 cute all lawful writs, process, and orders issued under the

1 authority of the United States, and shall command all nec-
2 essary assistance to execute the Secretary's duties.

3 (b) STATE AND LOCAL COOPERATION WITH DHS
4 DETAINERS.—A State, or a political subdivision of a
5 State, that has in effect a statute or policy or practice
6 providing that it not comply with any Department of
7 Homeland Security detainer ordering that it temporarily
8 hold an alien in their custody so that the alien may be
9 taken into Federal custody, or transport the alien for
10 transfer to Federal custody, shall not be eligible to re-
11 ceive—

12 (1) any of the funds that would otherwise be al-
13 located to the State or political subdivision under
14 section 241(i) of the Immigration and Nationality
15 Act (8 U.S.C. 1231(i)) or the “Cops on the Beat”
16 program under part Q of title I of the Omnibus
17 Crime Control and Safe Streets Act of 1968 (42
18 U.S.C. 3796dd et seq.); or

19 (2) any other law enforcement or Department
20 grant.

21 (c) IMMUNITY.—A State or a political subdivision of
22 a State acting in compliance with a Department of Home-
23 land Security detainer who temporarily holds aliens in its
24 custody so that they may be taken into Federal custody,
25 or transports the aliens for transfer to Federal custody,

1 shall be considered to be acting under color of Federal
2 authority for purposes of determining its liability, and im-
3 munity from suit, in civil actions brought by the aliens
4 under Federal or State law.

5 (d) PROBABLE CAUSE.—It is the sense of Congress
6 that the Department has probable cause to believe that
7 an alien is inadmissible or deportable when it issues a de-
8 tainer regarding such alien under the standards in place
9 on the date of introduction of this Act.

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