

Guidance on SB 62 & HB 511

Cooperation with Federal Immigration

Prohibiting Sanctuary Cities Policies



Chapter 38 – SB 62

Section 1 of SB 62 goes into effect on July 21, 2025. This new law, RSA chapter 106-P, will prohibit municipalities from barring local police departments from applying for entry or entering into an agreement with the U.S. Immigration and Customs Enforcement (ICE) to participate in a federal 278 (g) program pursuant to 8. U.S.C. §1357 (g).

These agreements are a voluntary, formal agreement between a local law enforcement agency and federal immigration authorities (ICE) granting authority to perform certain immigration enforcement actions. An example of a 278 (g) agreement is the one recently signed by the [NH State Police and ICE on April 25, 2025](#). Thus, even though in a town, the select board supervises the operations of the police department through its police chief by the adoption of written formal policies under RSA 105:2-a, a select board could not adopt a policy or directive that would prohibit the police chief on behalf of the police department from entering into a 278 (g) agreement with ICE.

Section 2 of SB 62 goes into effect on January 1, 2026, and prohibits local political subdivisions from prohibiting or impeding a state or federal law enforcement agency from complying with Title 8 of the US Code, which includes every federal law pertaining to immigration and immigration enforcement. Any local government that violates this provision may be subject to a civil complaint brought by the Attorney General and could be subject to punitive damages of up to 25% of the total state funds received by the local government entity in the fiscal year when the violation occurred.

Section 3 of SB 62 permits County Departments of Corrections to maintain custody over persons subject to an ICE detainer for a period of 48 hours after resolution of state charges to permit assumption of custody by federal authorities.

Chapter 39 – HB 511

This law goes into effect on January 1, 2026. It prohibits any unit of local government (town, cities, village districts) from having a sanctuary policy that impedes a law enforcement agency from complying with 8 U.S.C. section 1373¹, or which impedes a local law enforcement agency from communicating or cooperating with a federal immigration agency that would prohibit the agency from:

¹ § 1373. Communication between government agencies and the Immigration and Naturalization Service

- (a) Complying with an immigration detainer;
- (b) Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;
- (c) Providing a federal immigration agency access to an inmate for interview;
- (d) Participating in any program or agreement authorized under section 287 of the Immigration and Nationality Act, 8 U.S.C. section 1357; or
- (e) Providing a federal immigration agency with an inmate's incarceration status or release date.

This law further requires all local law enforcement agencies to comply with immigration detainers. An immigration detainer is defined as a facially sufficient written or electronic request issued by a federal immigration agency using that agency's official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law.

In addition, no local government entity shall restrict a law enforcement agency from sharing information about persons who are in custody such as:

- (a) Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency for the purposes of this chapter.
- (b) Recording and maintaining the information for purposes of this chapter.
- (c) Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency for purposes of this chapter.
- (d) Using the information to comply with an immigration detainer.
- (e) Using the information to confirm the identity of a person who is detained by a law enforcement agency.

The Attorney General can enforce this statute through declaratory judgment and seek injunctive relief.

(a) In general. Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities. Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries. The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information. 8 U.S.C.S. § 1373 (LexisNexis, Lexis Advance through Public Law 119-14, approved May 23, 2025)