

Moved by Lakey

Seconded by Anthon

IN THE SENATE
SENATE AMENDMENT TO H.B. NO. 83

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 17 through 22, and insert:

"IMMIGRATION COOPERATION AND ENFORCEMENT ACT

18-9001. SHORT TITLE. This chapter shall be known and may be cited as the "Immigration Cooperation and Enforcement Act."

18-9002. DEFINITIONS. As used in this chapter:

(1) "Alien" has the meaning assigned by 8 U.S.C. 1101, as that provision existed on January 1, 2023.

(2) "Custodial authority" means the director of the department of correction, county sheriffs, city chiefs of police, and any of their subordinates with the power to confine or detain a person under color of law.

(3) "Dangerous crime" means any felony crime as described in Idaho Code or in similar state or federal code, any offense for which an extended term of imprisonment may be imposed pursuant to section 19-2520B, Idaho Code, or any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code.

(4) "Dangerous illegal alien" means an illegal alien who has previously been convicted or found guilty, by judgment or withheld judgment, of a dangerous crime in this state or in any other state or nation.

(5) "DHS" means the United States department of homeland security and its subordinate agencies and divisions.

(6) "Illegal alien" means a person eighteen (18) years of age or older who is verified by the federal government to be present in the United States in violation of the federal immigration and nationality act, 8 U.S.C., and federal rules promulgated in accordance therewith.

(7) "Immigration detainer" means a notice or other documentation issued by United States immigration and customs enforcement requesting that a custodial authority or law enforcement official maintain temporary custody of an illegal alien, including a DHS form I-247 document or a similar successor form.

(8) "Law enforcement official" means all state, county, and local law enforcement officers, prosecuting attorneys, and city attorneys.

(9) "Port of entry" means a port of entry in the United States pursuant to 19 CFR 101.;"

in line 23, delete "9002" and insert: "9003"; in line 25, delete "directly from a foreign nation"; and in line 31, following "chapter" insert: ", or under chapter 27, title 37, Idaho Code".

1 On page 2, in line 18, delete "9003" and insert: "9004"; in line 35,
2 delete "an order issued"; delete line 36, and insert: "any agreement in
3 which an"; and in line 41, following "chapter" insert: ", or under chapter
4 27, title 37, Idaho Code".

5 On page 3, delete lines 1 through 9, and insert:

6 "18-9005. COOPERATION WITH FEDERAL AUTHORITIES. (1) To the extent au-
7 thorized by federal law, law enforcement officials shall be authorized to
8 send, receive, and maintain information relating to the immigration status
9 of illegal aliens for public safety purposes. Except as provided by fed-
10 eral law, law enforcement officials shall not be prohibited from receiving
11 or maintaining information relating to the immigration status of any illegal
12 alien or sending or exchanging such information with other federal, state,
13 or local law enforcement agencies for official public safety purposes.

14 (2) Law enforcement officials shall not be prohibited from entering
15 into memorandums of understanding, agreements, and memorandums of agreement
16 with the United States department of justice, DHS, or any other federal law
17 enforcement agency for the purpose of enforcing federal immigration laws,
18 including section 287(g) of the federal illegal immigration reform and
19 immigrant responsibility act of 1996, P.L. 104-208, or a similar federal
20 program.

21 (3) Except as provided by federal law, no law enforcement official
22 shall be prohibited from utilizing available federal resources, including
23 databases, equipment, grant funds, training, or participation in incentive
24 programs, for any public safety purpose related to the enforcement of fed-
25 eral immigration laws as against illegal aliens.

26 (4) Where a custodial authority has custody of a person in a correc-
27 tional facility, state rehabilitation center, penitentiary, prison, county
28 jail, or city jail, and the person is subject to an immigration detainer or
29 other federal warrant, the custodial authority shall comply with, honor, and
30 fulfill any reasonable request made in the immigration detainer or warrant
31 as long as any term of state-ordered confinement has been satisfied and it
32 does not impose undue burden, risk, or expense on the custodial authority or
33 law enforcement officials and shall inform the person identified in the im-
34 migration detainer or warrant that the person is being held pursuant to such
35 immigration detainer or warrant.

36 18-9006. TRAFFICKING A DANGEROUS ILLEGAL ALIEN. (1) The crime of traf-
37 ficking a dangerous illegal alien is committed when a person knowingly and
38 willfully transports into this state a dangerous illegal alien that the per-
39 son knows, or reasonably should know, is a dangerous illegal alien.

40 (2) A person commits a separate offense for each individual transported
41 into this state in violation of the provisions of this section.

42 (3) Whoever commits the crime of trafficking a dangerous illegal alien
43 shall be guilty of a felony and imprisoned for not less than one (1) year
44 and not more than two (2) years, fined not more than ten thousand dollars
45 (\$10,000), or both.

46 (4) The provisions of this section shall not apply if the defendant is
47 a necessary witness to or victim of a crime of domestic violence, rape, sex-

1 ual exploitation, sexual assault, murder, manslaughter, assault, battery,
2 human trafficking, kidnapping, false imprisonment, involuntary servitude,
3 fraud in foreign labor contracting, blackmail, extortion, or witness tam-
4 pering where the referenced crime occurred during the defendant's act of
5 transporting the dangerous illegal alien.

6 18-9007. SENTENCING ENHANCEMENT. Any person eighteen (18) years of
7 age or older who is found guilty of or pleads guilty to any dangerous crime
8 shall be sentenced to a mandatory minimum term of confinement to the custody
9 of the state board of correction for a period of not less than five (5) years
10 if it is found by the trier of fact that previous to the commission of such
11 dangerous crime the defendant has been deported or is under order of removal
12 or deportation pursuant to federal authority.

13 18-9008. DETERMINATION OF ALIENAGE UPON CONFINEMENT. (1) Following an
14 arrest for a criminal offense, the custodial authority shall determine as
15 part of the booking process if the person may be a foreign national. If it is
16 determined that the person is a foreign national, then the custodial author-
17 ity shall notify DHS of the identity of the person so confined and the place
18 of confinement. Such notification shall be provided within forty-eight (48)
19 hours of the person being placed in confinement.

20 (2) A person's status as a foreign national shall be considered suspect
21 if the person cannot provide:

- 22 (a) A valid Idaho driver's license;
23 (b) A valid Idaho identification card;
24 (c) A valid United States passport;
25 (d) Any valid driver's license or identification card issued by a state
26 or district or territory of the United States, provided the issuing
27 authority limits issuance of the foregoing to persons who demonstrate
28 lawful presence in the United States;
29 (e) Any valid identification card issued by the United States, includ-
30 ing those issued by the department of defense, provided the issuing
31 authority limits issuance of the foregoing to persons who demonstrate
32 lawful presence in the United States; or
33 (f) Any other information sufficiently reliable to demonstrate the
34 identity of the confined person and the person's lawful presence in the
35 United States.

36 18-9009. CONDITIONS OF RELEASE OF ILLEGAL ALIEN FROM CONFINEMENT.
37 Following entry of a judgment of conviction for a criminal offense,
38 no person eighteen (18) years of age or older that is known to be an illegal
39 alien shall be released from confinement in any correctional facility, state
40 rehabilitation center, penitentiary, prison, county jail, or city jail un-
41 til the determinate sentence has been completed, and thereafter may only be
42 released prior to the person's completion of his indeterminate sentence if
43 the alien is being released into the custody of law enforcement officials
44 from another state or the federal government for further criminal proceed-
45 ings or if the custodial authority first obtains written confirmation from
46 DHS that DHS will take custody of the person upon release and deport the
47 person from the United States. An illegal alien shall not be eligible to par-

1 ticipate in alternate sentencing programs such as work release, inmate labor
2 detail, a scheduled sentence program, or similar programs.

3 18-9010. AUTHORITY TO TRANSPORT ILLEGAL ALIENS. A law enforcement of-
4 ficial of the custodial authority shall be authorized to securely transport
5 such illegal alien to a federal facility in this state or to any other tempo-
6 rary point of detention when complying with a valid immigration detainer or a
7 federal arrest warrant or pursuant to release arranged with DHS pursuant to
8 section 18-9009, Idaho Code.

9 18-9011. IMMUNITY. A law enforcement official or custodial authority
10 acting in good faith to carry out duties or activities allowed by this chap-
11 ter shall have immunity from damages or liability from such actions.";
12 in line 10, delete "9005" and insert: "9012"; and following line 13, insert:

13 "18-9013. INTERPRETATION. (1) The provisions of this chapter relating
14 to immigration terminology and definitions shall be construed to have the
15 same meanings as provided under federal immigration law, unless otherwise
16 defined in this chapter.

17 (2) The provisions of this chapter shall be construed and implemented
18 in a manner consistent with federal laws and regulations and interpretive
19 case law governing immigration and civil rights."

20 AMENDMENT TO THE BILL

21 On page 3, delete lines 14 through 47.

22 On page 4, delete lines 1 through 25; in line 26, delete "3" and insert:
23 "2"; and in line 31, delete "4" and insert: "3".

24 CORRECTION TO TITLE

25 On page 1, in line 3, delete "TO DEFINE TERMS, TO PROVIDE FOR THE"; delete
26 lines 4 through 9; and in line 10, delete "TO RETURN TO A FOREIGN NATION" and
27 insert: "TO ESTABLISH PROVISIONS REGARDING THE IMMIGRATION COOPERATION AND
28 ENFORCEMENT ACT".