

## Sanctuary Promise Act Explainer

In 2021 the Oregon Legislature passed a bill to strengthen Oregon's long-standing sanctuary laws that prohibit local law enforcement from engaging in or assisting with federal immigration enforcement. The new law called the **Sanctuary Promise Act**,\* clarifies the 1987 sanctuary policy, places new requirements and limits on law enforcement agencies and officers, and narrows the exceptions found in the former policy.

### What does the Sanctuary Promise Act Do?

The Sanctuary Promise Act clarifies that rules separating local law enforcement from federal immigration enforcement apply to all public bodies and law enforcement agencies in Oregon, including county sheriffs, municipal police departments, police departments established by a university, the Oregon State Police, and corrections officers.

#### **The Sanctuary Promise Act prohibits these actions, among others:**

1. Investigating or interrogating people or otherwise collaborating with federal authorities for immigration enforcement purposes;
2. Requesting, storing, or sharing information about country of birth, immigration, or citizenship status;
3. Detecting and taking people into custody for immigration enforcement;
4. Notifying immigration officials of people in local custody who police believe are violating federal immigration law;
5. Giving immigration officials access to people law enforcement is detaining in restricted areas of local jails;
6. Denying services, benefits, or privileges to a person in jail or on probation/parole because of immigration status;
7. Jails contracting with immigration authorities;
8. Immigration officials arresting someone on their way to or from a court, or while at court, without a warrant from a judge.

#### **The Sanctuary Promise Act also contains new reporting and enforcement provisions:**

1. All [public bodies must file reports](#) to the Criminal Justice Commission any time they receive a "communication or request from a federal agency that relates to immigration enforcement, other than a qualifying judicial subpoena;" File reports here: <https://tinyurl.com/CJCReporting>
2. Any person can sue law enforcement agencies or any other public body that is violating the Sanctuary Promise Act for an injunction to comply with the Act;
3. The Department of Justice maintains a [Sanctuary Promise Hotline](#) for anyone to report a potential violation of the Sanctuary Promise Act and access support resources if they have been impacted. Report online at <https://sanctuarypromise.oregon.gov/>

### Is your local policy in alignment with the Sanctuary Promise Act?

To check to see whether your policies and actions comply with the Sanctuary Promise Act, please contact Johanna Costa, Oregon Department of Justice's Bias Response Coordinator at [Johanna.Costa@doj.state.or.us](mailto:Johanna.Costa@doj.state.or.us). Website address: <https://sanctuarypromise.oregon.gov/>

\*A printed version of the Sanctuary Promise Act from the Oregon Revised Statutes is attached to this memo.

expenses incurred before July 1, 2008, by reason of the law enforcement agency's participation in the development of the plan required by ORS 181A.780 (4).

(3) Notwithstanding ORS 181A.805 (2), when a law enforcement agency applies for a grant under ORS 181A.805, the department, to the extent that funds are appropriated to the department for the purpose, shall make a grant that exceeds 75 percent of the expenses incurred by the law enforcement agency if the law enforcement agency has unused credits awarded under subsection (2) of this section. When the department makes a grant that exceeds 75 percent of the expenses incurred by a law enforcement agency, the department shall deduct the amount of the grant that exceeds 75 percent from the credits awarded the law enforcement agency under subsection (2) of this section.

(4) The department may adopt rules necessary for the administration of this section. [Formerly 181.799]

## IMMIGRATION ENFORCEMENT

**181A.820 Enforcement of federal immigration laws; civil action for violation.** (1) As used in this section:

(a) "Federal immigration authority" has the meaning given that term in ORS 180.805.

(b) "Warrant of arrest" has the meaning given that term in ORS 131.005.

(2) A law enforcement agency may not use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons for the purpose of enforcing federal immigration laws.

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

(4) Notwithstanding subsection (2) of this section, a law enforcement agency may exchange information with a federal immigration authority in order to request criminal investigation information with reference to persons named in records of the federal immigration authority.

(5) Notwithstanding subsection (2) of this section, a law enforcement agency may arrest any person who:

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

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

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

(7) For purposes of subsection (2) or (3) of this section, the Bureau of Labor and Industries is not a law enforcement agency. [Formerly 181.850; 2019 c.13 §32; 2021 c.550 §9]

**181A.822 Definitions for ORS 181A.822 to 181A.829.** As used in ORS 181A.822 to 181A.829:

(1) "Court facility" means a building or space occupied or used by a court of this state or local jurisdiction of this state, and any adjacent property including, but not limited to, sidewalks, parking area, grass or landscaped area, plazas, court-related offices, commercial and governmental spaces within the building or space and entrances to and exits from the building or space.

(2) "Federal immigration authority" means the United States Department of Homeland Security, the United States Immigration and Customs Enforcement, the United States Citizenship and Immigration Services, the United States Customs and Border Protection or a successor agency, any other federal immigration agency or official, or any other entity to which a federal immigration agency delegates or assigns the authority to detect, investigate or enforce violations of immigration law.

(3) "Immigration enforcement" means any activity that has as a purpose the apprehension or identification of an individual in order to:

(a) Subject the individual to civil immigration arrest, civil immigration detention, removal or deportation proceedings or removal or deportation from the United States; or

(b) Criminally prosecute the individual for offenses related to federal laws regarding immigration status.

(4) “Law enforcement agency” means:

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

(b) The Oregon State Police; and

(c) Corrections officers.

(5) “Officer” means an individual employed or contracted as an officer of a law enforcement agency whether or not the individual is on duty.

(6) “Public body” has the meaning given that term in ORS 174.109. [2021 c.550 §1]

**181A.823 Prohibitions related to immigration enforcement; explanation of rights and consequences; civil action.** (1) A law enforcement agency or public body may not:

(a) Except as required by state or federal law, deny services, benefits, privileges or opportunities to an individual in custody, or on parole, probation or post-prison supervision, on the basis of known or suspected immigration status, the existence of an immigration detainer, hold, notification or other related federal immigration request or a civil immigration warrant;

(b) Inquire into or collect information about an individual’s immigration or citizenship status or country of birth unless:

(A) The information is required to advance an investigation into a violation of state or local criminal law;

(B) The information is submitted to a court of this state, whether orally or in writing, in connection with a proceeding in that court; or

(C) As necessary to determine the individual’s eligibility for a benefit that the individual is seeking; or

(c) Provide information about an individual in the custody of the public body or law enforcement agency to a federal immigration authority for the purpose of civil immigration enforcement, except:

(A) As may be required by a judicial subpoena issued as part of a court proceeding or by another compulsory court-issued legal process; or

(B) To the extent that the information is available to the general public and under the same terms and conditions as the information is available to the general public.

(2) For purposes of subsection (1)(c)(A) of this section, a judicial subpoena does not include an administrative subpoena created and signed by a federal immigration authority.

(3) To ensure compliance with all treaty obligations, including consular notification, and state and federal laws, on the commitment or detainment of an individual, a law enforcement agency shall explain to the individual in writing, with interpretation into another language if requested:

(a) The individual’s right to refuse to disclose the individual’s nationality, citizenship or immigration status; and

(b) That disclosure of the individual’s nationality, citizenship or immigration status may result in civil or criminal immigration enforcement, including removal from the United States.

(4) Any person may bring a civil action against a law enforcement agency or public body that violates subsections (1) to (3) of this section to enjoin the violation. [2021 c.550 §2]

**181A.825** [Formerly 181.852; renumbered 181A.672 in 2021]

**181A.826 Prohibition on use of public resources for immigration enforcement; documentation; submission to Oregon Criminal Justice Commission; website; disclosure to Department of Justice; reporting requirements; civil action.** (1) Public facilities, property, moneys, equipment, technology or personnel may not be used for the purpose of investigating, detecting, apprehending, arresting, detaining or holding individuals for immigration enforcement.

(2) Actions with a purpose described in subsection (1) of this section include, but are not limited to, the following:

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

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

(A) Providing information, including but not limited to an individual's contact information, country of birth, custody status, release date, parole, probation or post-prison supervision appointment dates or times, or home or work address, except as provided in ORS 181A.823;

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

(C) Establishing traffic perimeters for the purpose of supporting or facilitating immigration enforcement.

(3)(a) If a public body receives a communication or request from a federal agency that relates to immigration enforcement, other than a judicial subpoena described in ORS 181A.823 (1)(c)(A), the public body shall decline the request and document the communication or request. The documentation described in this subsection must be provided to the director or other similar management personnel of the public body.

(b) The public body shall submit the information documented under this subsection to the Oregon Criminal Justice Commission pursuant to procedures established by the commission. The commission shall require at least monthly submission of the information described in this subsection.

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

(4)(a) The commission shall publish and continually update, on a website operated by or on behalf of the commission, an entry for each communication or request described in subsection (3) of this section, the public body that received the communication or request, the federal agency involved in the communication or that made the request and a summary of the public body's response to the communication or request.

(b) The information contained on the website described in this subsection may not contain any personally identifiable information of the individuals involved in the communication or request, including of an individual targeted by federal immigration authorities, an individual who reported the communication or request, an individual who witnessed the communication or request or report of the communication or request or the family members of an individual described in this paragraph.

(c)(A) Information obtained by the commission under this subsection may be used only for statistical purposes and coordination with the sanctuary violation reporting mechanism established under ORS 181A.827.

(B) Information described in this subsection that may reveal the identity of an individual described in paragraph (b) of this subsection is exempt from disclosure under ORS 192.311 to 192.478.

(C) Pursuant to a request from the Department of Justice, the commission may release to the department information described in this subsection that is necessary to investigate a report made to the sanctuary violation reporting mechanism established under ORS 181A.827 if the information is used to support an individual described in paragraph (b) of this subsection.

(d) Not later than July 1, 2022, and at least annually thereafter, the commission shall issue a report that summarizes the information reported to the commission and published on the website described in this subsection. The commission shall provide the report to the Governor, the Legislative Assembly, the district attorneys of this state, the Department of State Police, each law enforcement agency in this state and the Department of Public Safety Standards and Training.

(5) Any person may bring a civil action against a law enforcement agency or public body that violates subsection (1) of this section to enjoin the violation. [2021 c.550 §3]

**181A.827 Sanctuary violation reporting mechanism; website.** (1) The Department of Justice shall establish a sanctuary violation reporting mechanism to receive reports of alleged violations of ORS 180.805,

181A.820, 181A.823 and 181A.826. The sanctuary violation reporting mechanism must include a staffed telephone hotline and an online system that allows for electronic reporting.

(2) The sanctuary violation reporting mechanism must:

- (a) Be coordinated with the Oregon Criminal Justice Commission to develop a standardized intake process for reports made through the hotline or online system;
- (b) Collect all data possible regarding agencies, personnel, locations and individuals involved with violations reported through the hotline or online system;
- (c) Provide culturally competent assistance, referrals and resources to an individual targeted by a violation reported through the hotline or online system, and ensure that the assistance, referrals and resources are designed to reduce the effects of trauma and prevent further trauma; and
- (d) Coordinate with local organizations and service providers to assist individuals targeted by violations reported through the hotline or online system and families of those individuals.

(3) The department, in coordination with the commission, shall publish and continually update, on a website operated by or on behalf of the department:

- (a) The number of complaints received by the mechanism established under subsection (1) of this section; and
  - (b) An entry for each complaint, including the alleged violation, the federal agency implicated in the complaint and public bodies or agencies involved in the incident and the response of the public bodies and agencies.
- (4) The information contained on the website described in subsection (3) of this section may not contain any personally identifiable information of the individuals involved in the incident on which the complaint is based.

(5) Information and data obtained under this section:

- (a) May be used only for the purposes described in this section; and
- (b) Is exempt from public disclosure under ORS 192.311 to 192.478 if the information may reveal the identity of an individual involved in an incident on which a complaint reported to the sanctuary violation reporting mechanism is based. [2021 c.550 §4]

**181A.828 Prohibition on civil arrest without warrant or order in court facility or in connection with court proceeding; civil action.** (1) An individual may not be subject to civil arrest without a judicial warrant or judicial order when the individual is in a court facility.

(2) An individual who, in good faith, is attending a court proceeding in which the individual is a party or potential witness, or family or household member of a party or potential witness, may not be subject to civil arrest while going to, remaining at or returning from the court proceeding, unless the civil arrest is supported by a judicial warrant or judicial order that authorizes the civil arrest.

(3) Any person may bring a civil action against a law enforcement agency or public body that violates this section to enjoin the violation. [2021 c.550 §5]

**181A.829 Prohibition on agreements related to immigration enforcement; operation of private immigration detention facility; civil action.** (1) A public body, law enforcement agency or an officer of a law enforcement agency may not enter into or renew an agreement, contract, memorandum of understanding or other arrangement that authorizes the public body, law enforcement agency or officer to exercise federal immigration enforcement powers, including those powers specified in 8 U.S.C. 1357(g), or that otherwise permits the public body, law enforcement agency or officer to detain or house individuals for federal civil immigration violations.

(2) A public body or law enforcement agency may not enter into or renew an agreement, contract, memorandum of understanding or other arrangement under which the public body or law enforcement agency

detains or houses individuals who are in the custody of a federal immigration authority for violations of federal immigration law.

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

(4) Any person may bring a civil action against a law enforcement agency or public body that violates this section to enjoin the violation. [2021 c.550 §6]

**181A.830** [Formerly 181.854; 2020 s.s.1 c.7 §5; renumbered 181A.674 in 2021]

**181A.832** [2019 c.79 §1; renumbered 181A.487 in 2021]

## PEER SUPPORT COUNSELING SESSIONS

**181A.835 Peer support counseling sessions; confidentiality; admissibility as evidence.** (1) For the purposes of this section:

(a) “Emergency services provider” means any public employer that employs persons to provide firefighting services.

(b) “Emergency services personnel” means any employee of an emergency services provider who is engaged in providing firefighting services.

(c) “Employee assistance program” means a program established by a law enforcement agency or emergency services provider to provide counseling or support services to employees of the law enforcement agency or emergency services provider.

(d) “Law enforcement agency” means any county sheriff, municipal police department, police department established by a university under ORS 352.121 or 353.125, the Oregon State Police and any state or local public body that employs or utilizes public safety personnel.

(e) “Public safety personnel” means a sheriff, deputy sheriff, municipal police officer, police officer commissioned by a university under ORS 352.121 or 353.125, state police officer, parole and probation officer, corrections employee, certified reserve officer, reserve officer, telecommunicator or emergency medical dispatcher.

(2) Any communication made by a participant or counselor in a peer support counseling session conducted by a law enforcement agency or by an emergency services provider for public safety personnel or emergency services personnel, and any oral or written information conveyed in the peer support counseling session, is confidential and may not be disclosed by any person participating in the peer support counseling session.

(3) Any communication relating to a peer support counseling session made confidential under subsection (2) of this section that is made between counselors, between counselors and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.

(4) The provisions of this section apply only to peer support counseling sessions conducted by an employee or other person who:

(a) Has been designated by a law enforcement agency or emergency services provider, or by an employee assistance program, to act as a counselor; and

(b) Has received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

(5) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records for the purpose of ORS 192.311 to 192.478.