

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY M. _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Shut Down Sanctuary
3 Policies Act of 2026”.

4 SEC. 2. STATE AND LOCAL COOPERATION WITH ENFORCE-
5 MENT OF IMMIGRATION LAW.

6 (a) IN GENERAL.—Section 642 of the Illegal Immi-
7 gration Reform and Immigrant Responsibility Act of 1996
8 (8 U.S.C. 1373) is amended—

9 (1) in the header by striking “**COMMUNICA-**
10 **TION BETWEEN GOVERNMENT AGENCIES AND**
11 **THE IMMIGRATION AND NATURALIZATION**
12 **SERVICE**” and inserting “**STATE AND LOCAL**
13 **GOVERNMENT COOPERATION WITH IMMIGRA-**
14 **TION ENFORCEMENT**”;

15 (2) by striking subsection (a) and inserting the
16 following:

17 “(a) IN GENERAL.—The right of any Federal, State,
18 or local government entity, official, or other personnel to

1 comply with or enforce the immigration laws (as defined
2 in section 101(a)(17) of the Immigration and Nationality
3 Act (8 U.S.C. 1101(a)(17))), or to assist or cooperate with
4 Federal law enforcement entities, Federal law enforcement
5 officials, immigration officials, or other personnel regard-
6 ing the enforcement of such laws, shall not be prohibited
7 or in any way restricted.”;

8 (3) by striking subsection (b) and inserting the
9 following:

10 “(b) LAW ENFORCEMENT ACTIVITIES.—

11 “(1) IN GENERAL.—The right of any Federal,
12 State, or local government entity, official, or other
13 personnel to undertake law enforcement activities
14 described under paragraph (2) as they relate to in-
15 formation regarding the citizenship or immigration
16 status, lawful or unlawful, the inadmissibility or de-
17 portability, or the custody status of any individual
18 (including any information that could reasonably be
19 used to determine such status, including personal
20 identifying information) shall not be prohibited or in
21 any way restricted.

22 “(2) LAW ENFORCEMENT ACTIVITIES DE-
23 SCRIBED.—The law enforcement activities described
24 in this paragraph are the following:

1 “(A) Making inquiries to any individual to
2 obtain the information described under para-
3 graph (1) regarding such individual or any
4 other individuals.

5 “(B) Maintaining the information de-
6 scribed under paragraph (1).

7 “(C) Actions taken by a State, or local
8 government entity, official, or other personnel
9 to—

10 “(i) notify the Federal Government
11 regarding the presence of individuals who
12 are encountered by law enforcement offi-
13 cials or other personnel of a State or local
14 government; and

15 “(ii) comply with requests for such in-
16 formation from Federal law enforcement
17 entities, officials, or other personnel.”;

18 (4) in subsection (c), by striking “Immigration
19 and Naturalization Service” and inserting “Depart-
20 ment of Homeland Security”; and

21 (5) by adding at the end the following:

22 “(d) **CONTRARY LAWS SUPERSEDED.**—The provi-
23 sions under subsections (a) and (b) shall supersede any
24 and all State and local laws, ordinances, regulations, and
25 policies that directly or indirectly prohibit or restrict, in

1 whole or in part, the activities described in such sub-
2 sections.

3 “(e) REMOVAL.—A civil action or criminal prosecu-
4 tion that is commenced in a State court and that is
5 against or directed to a State or local government entity
6 (and an official or other personnel of the State or local
7 government entity acting in their official capacities) based
8 on their compliance with subsection (a) or (b) may be re-
9 moved by them to the district court of the United States
10 for the district and division embracing the place wherein
11 it is pending or to the district court of the United States
12 for the district and division in which the defendant was
13 served with process.

14 “(f) IMMUNITY.—A State or local government entity
15 (and an official or other personnel of the State or local
16 government entity acting in their official capacities) acting
17 in compliance with subsection (a) or (b) shall be consid-
18 ered to be acting under color of Federal authority for pur-
19 poses of determining their liability and shall be held harm-
20 less for their compliance in any suit seeking any punitive,
21 compensatory, or other monetary damages.

22 “(g) FEDERAL GOVERNMENT AS DEFENDANT.—Fol-
23 lowing removal of any civil action arising out of compli-
24 ance with subsection (a) or (b) the United States Govern-

1 ment shall be substituted as the party defendant in the
2 suit.

3 “(h) MISTREATMENT EXCEPTION.—Subsections (f)
4 and (g) shall not apply for claims the district court deter-
5 mines arose from any mistreatment of an individual by
6 a State or local government entity (or an official or other
7 personnel of the State or local government entity acting
8 in their official capacities) exercising the rights described
9 under subsection (a) or (b).

10 “(i) FEDERAL FUNDING.—

11 “(1) ELIGIBILITY FOR CERTAIN GRANT PRO-
12 GRAMS.—A State or local government that is deter-
13 mined, pursuant to paragraph (4), to restrict the
14 rights described under subsection (a) or (b) or that
15 has in effect a statute, policy, or practice providing
16 that it not comply with valid Department of Home-
17 land Security detainers issued pursuant to section
18 287(d)(1) of the Immigration and Nationality Act (8
19 U.S.C. 1357(d)(1)), shall not be eligible to receive
20 for the period described in paragraph (6)—

21 “(A) any of the funds that would otherwise
22 be allocated to the State or local government
23 under section 241(i) of the Immigration and
24 Nationality Act (8 U.S.C. 1231(i)), the ‘Cops
25 on the Beat’ program under part Q of title I of

1 the Omnibus Crime Control and Safe Streets
2 Act of 1968 (34 U.S.C. 10381 et seq.), or the
3 Edward Byrne Memorial Justice Assistance
4 Grant Program under subpart 1 of part E of
5 title I of the Omnibus Crime Control and Safe
6 Streets Act of 1968 (34 U.S.C. 10151 et seq.);
7 or

8 “(B) any other grant administered by the
9 Department of Justice or the Department of
10 Homeland Security that is substantially related
11 to law enforcement, immigration, enforcement
12 of the immigration laws, or naturalization.

13 “(2) TRANSFER OF CUSTODY OF ALIENS PEND-
14 ING REMOVAL PROCEEDINGS.—The Secretary of
15 Homeland Security, at the Secretary’s sole and
16 unreviewable discretion, may decline to transfer an
17 alien in the custody of the Department of Homeland
18 Security to a State or local government determined,
19 pursuant to paragraph (4), to restrict the rights de-
20 scribed under subsection (a) or (b), or that has in
21 effect a statute, policy, or practice providing that it
22 not comply with valid Department of Homeland Se-
23 curity detainers issued pursuant to section 287(d)(1)
24 of the Immigration and Nationality Act (8 U.S.C.

1 1357(d)(1)), regardless of whether the State or local
2 government has issued a writ or warrant.

3 “(3) TRANSFER OF CUSTODY OF CERTAIN
4 ALIENS PROHIBITED.—The Secretary of Homeland
5 Security shall not transfer an alien with a final
6 order of removal, as defined in section 101(a)(47) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1101(a)(47)), to a State or local government that is
9 determined, pursuant to paragraph (4), to restrict
10 the rights described under subsection (a) or (b), or
11 that has in effect a statute, policy, or practice pro-
12 viding that it not comply with valid Department of
13 Homeland Security detainers issued pursuant to sec-
14 tion 287(d)(1) of the Immigration and Nationality
15 Act (8 U.S.C. 1357(d)(1)).

16 “(4) ANNUAL DETERMINATION.—The Secretary
17 of Homeland Security, in the Secretary’s sole and
18 unreviewable discretion, shall determine for each fis-
19 cal year which States and local governments restrict
20 the rights described under subsection (a) or (b), or
21 that have in effect a statute, policy, or practice pro-
22 viding that they not comply with valid Department
23 of Homeland Security detainers issued pursuant to
24 section 287(d)(1) of the Immigration and Nation-
25 ality Act (8 U.S.C. 1357(d)(1)), and shall report

1 such determinations to the Committees on the Judi-
2 ciary of the House of Representatives and the Sen-
3 ate by March 1 of each succeeding fiscal year.

4 “(5) REPORTS.—The Secretary of Homeland
5 Security shall issue a report on the annual deter-
6 mination made under paragraph (4) at the request
7 of the Committees on the Judiciary of the House of
8 Representatives and the Senate.

9 “(6) PERIOD DESCRIBED.—Any jurisdiction
10 that is determined to restrict the rights established
11 under subsection (a) or (b) or that has in effect a
12 statute, policy, or practice providing that it not com-
13 ply with valid Department of Homeland Security de-
14 tainers issued pursuant to section 287(d)(1) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1357(d)(1)) shall be ineligible to receive Federal fi-
17 nancial assistance as provided in paragraph (1)—

18 “(A) for a period of 1 year; or

19 “(B) until the Secretary of Homeland Se-
20 curity certifies that the jurisdiction has come
21 into compliance, whichever is later.

22 “(7) REALLOCATION.—Any funds that are not
23 allocated to a State or to a local government due to
24 the State or local government restricting the rights
25 described under subsection (a) or (b), or that has in

1 effect a statute, policy, or practice providing that it
2 not comply with valid Department of Homeland Se-
3 curity detainers issued pursuant to section 287(d)(1)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1357(d)(1)), shall be reallocated to States or local
6 governments that comply with each such sub-
7 section.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act, except that subsection (i) of section 642 of
11 the Illegal Immigration Reform and Immigrant Responsi-
12 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-
13 tion, shall apply only to prohibited acts committed on or
14 after the date of the enactment of this Act.

15 **SEC. 3. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

16 Section 287(d) of the Immigration and Nationality
17 Act (8 U.S.C. 1357(d)) is amended to read as follows:

18 “(d) **DETAINDER OF INADMISSIBLE OR DEPORTABLE**
19 **ALIENS.**—

20 “(1) **IN GENERAL.**—In the case of an individual
21 who is arrested by any Federal, State, or local law
22 enforcement official or other personnel for the al-
23 leged violation of any criminal or motor vehicle law,
24 the Secretary of Homeland Security shall issue a de-
25 tainer regarding the individual to any Federal,

1 State, or local law enforcement entity, official, or
2 other personnel if the Secretary has probable cause
3 to believe that the individual is an inadmissible or
4 deportable alien.

5 “(2) PROBABLE CAUSE.—Probable cause is es-
6 tablished if any of the following criteria is met:

7 “(A) The individual who is the subject of
8 the detainer matches, pursuant to biometric
9 confirmation or other Federal database records,
10 the identity of an alien who the Secretary has
11 reasonable grounds to believe to be inadmissible
12 or deportable.

13 “(B) The individual who is the subject of
14 the detainer is the subject of ongoing removal
15 proceedings, including matters in which a
16 charging document has been served.

17 “(C) The individual who is the subject of
18 the detainer has previously been ordered re-
19 moved from the United States and such an
20 order is administratively final.

21 “(D) The individual who is the subject of
22 the detainer has made voluntary statements to
23 an immigration officer or there is other reliable
24 evidence that affirmatively indicates that the in-
25 dividual is an inadmissible or deportable alien.

1 “(E) The Secretary otherwise has reason-
2 able grounds to believe that the individual who
3 is the subject of the detainer is an inadmissible
4 or deportable alien.

5 “(3) TRANSFER OF CUSTODY.—If the Federal,
6 State, or local law enforcement entity, official, or
7 other personnel to whom a detainer is issued com-
8 plies with the detainer and detains for purposes of
9 transfer of custody to the Department of Homeland
10 Security the individual who is the subject of the de-
11 tainer, the Department may take custody of the in-
12 dividual within 48 hours (excluding weekends and
13 holidays), but in no instance more than 96 hours,
14 following the date that the individual is otherwise to
15 be released from the custody of the relevant Federal,
16 State, or local law enforcement entity.

17 “(4) REMOVAL.—A civil action or criminal
18 prosecution that is commenced in a State court and
19 that is against or directed to a State or local govern-
20 ment entity (and an official or other personnel of the
21 State or local government entity acting in their offi-
22 cial capacities), and a nongovernmental entity (and
23 its personnel) contracted by the State or local gov-
24 ernment for the purpose of providing detention, act-
25 ing in compliance with a Department of Homeland

1 Security detainer issued pursuant to this section
2 that temporarily holds an alien in their custody pur-
3 suant to the terms of a detainer so that the alien
4 may be taken into the custody of the Department of
5 Homeland Security may be removed by them to the
6 district court of the United States for the district
7 and division embracing the place wherein it is pend-
8 ing or to the district court of the United States for
9 the district and division in which the defendant was
10 served with process.

11 “(5) IMMUNITY.—A State or local government
12 entity (and an official or other personnel of the
13 State or local government entity acting in their offi-
14 cial capacities), and a nongovernmental entity (and
15 its personnel) contracted by the State or local gov-
16 ernment for the purpose of providing detention, act-
17 ing in compliance with a Department of Homeland
18 Security detainer issued pursuant to this section
19 that temporarily holds an alien in their custody pur-
20 suant to the terms of a detainer so that the alien
21 may be taken into the custody of the Department of
22 Homeland Security, shall be considered to be acting
23 under color of Federal authority for purposes of de-
24 termining their liability and shall be held harmless
25 for their compliance with the detainer in any suit

1 seeking any punitive, compensatory, or other mone-
2 tary damages.

3 “(6) FEDERAL GOVERNMENT AS DEFEND-
4 ANT.—Following removal of any civil action arising
5 out of the compliance with a Department of Home-
6 land Security detainer by a State or local govern-
7 ment (and the officials and personnel of the State or
8 local government acting in their official capacities),
9 or a nongovernmental entity (and its personnel) con-
10 tracted by the State or local government for the pur-
11 pose of providing detention, the United States Gov-
12 ernment shall be substituted as the party defendant
13 in the suit in regard to the detention resulting from
14 compliance with the detainer.

15 “(7) MISTREATMENT EXCEPTION.—Paragraphs
16 (5) and (6) shall not apply for claims the district
17 court determines arose from any mistreatment of an
18 individual by a State or a local government (and the
19 officials and personnel of the State or local govern-
20 ment acting in their official capacities), or a non-
21 governmental entity (and its personnel) contracted
22 by the State or local government for the purpose of
23 providing detention.

24 “(8) CONTRARY LAWS SUPERSEDED.—The pro-
25 visions under this section shall supersede any and all

1 State and local laws, ordinances, regulations, and
2 policies that directly or indirectly prohibit or restrict,
3 in whole or in part, the activities described in such
4 section.

5 “(9) PRIVATE RIGHT OF ACTION.—

6 “(A) CAUSE OF ACTION.—Any individual,
7 or a spouse, parent, or child of that individual
8 (if the individual is deceased), who is the victim
9 of a murder, rape, any felony (as such terms
10 are defined by the prosecuting jurisdiction), or
11 any aggravated felony (as defined in section
12 101(a)(43) of the Immigration and Nationality
13 Act (8 U.S.C. 1101(a)(43)), for which an alien
14 has been convicted may bring an action for
15 compensatory damages against a State or local
16 government (or public official acting in an offi-
17 cial capacity) in the appropriate Federal court
18 if the State or local government, except as pro-
19 vided in subparagraphs (B) and (D)—

20 “(i) released the alien from custody
21 prior to the commission of such crime as
22 a consequence of the State or local govern-
23 ment declining to honor a detainer issued
24 pursuant to paragraph (1);

1 “(ii) has in effect a statute, policy, or
2 practice not in compliance with section 642
3 of the Illegal Immigration Reform and Im-
4 migrant Responsibility Act of 1996 (8
5 U.S.C. 1373) and as a consequence of its
6 statute, policy, or practice, released the
7 alien from custody prior to the commission
8 of such crime; or

9 “(iii) has in effect a statute, policy, or
10 practice requiring a subordinate local gov-
11 ernment to decline to honor any or all de-
12 tainers issued pursuant to paragraph (1)
13 and as a consequence of its statute, policy
14 or practice, the subordinate local govern-
15 ment declined to honor a detainer issued
16 pursuant to such section and released the
17 alien from custody prior to the commission
18 of such crime.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to any individual who committed
21 an offense described in such subparagraph.

22 “(C) LIMITATION ON BRINGING ACTION.—
23 An action may not be brought under this para-
24 graph later than the date that is 10 years fol-
25 lowing the commission of the crime, or death of

1 a person as a result of such crime, whichever
2 occurs later.

3 “(D) PROPER DEFENDANT.—If a subordi-
4 nate local government—

5 “(i) declines to honor a detainer
6 issued pursuant to paragraph (1) as a con-
7 sequence of a prohibition imposed on that
8 subordinate local government by a State or
9 another local government with jurisdiction
10 over the subordinate local government that
11 prohibits the subordinate local government
12 from honoring the detainer or fully com-
13 plying with section 642 of the Illegal Im-
14 migration Reform and Immigrant Respon-
15 sibility Act of 1996 (8 U.S.C. 1373); and

16 “(ii) as a consequence of the statute
17 or other legal requirement of the State or
18 local government, the subdivision released
19 the alien referred to in subparagraph (A)
20 from custody prior to the commission of
21 the crime referred to in that paragraph,
22 the State or other local government that im-
23 posed the prohibition shall be the proper de-
24 fendant in a cause of action under this sub-
25 section, and no such cause of action may be

1 maintained against the local government that
2 declined to honor the detainer.

3 “(E) ATTORNEY’S FEES AND OTHER
4 COSTS.—In any action or proceeding under this
5 paragraph, the court shall award a prevailing
6 plaintiff a reasonable attorney’s fee and a rea-
7 sonable expert fee as part of the costs.

8 “(F) RETROACTIVITY.—Subject to the lim-
9 itation in subparagraph (C), an action under
10 subparagraph (A) may be brought with respect
11 to an offense described in such subparagraph
12 (A)—

13 “(i) committed not earlier than 10
14 years before the date of enactment of the
15 Shut Down Sanctuary Policies Act of
16 2026; or

17 “(ii) committed on or after the date of
18 enactment of the Shut Down Sanctuary
19 Policies Act of 2026.”.

20 **SEC. 4. CONSTRUCTION; SEVERABILITY.**

21 Any provision of this Act, or an amendment made
22 by this Act, held to be invalid or unenforceable by its
23 terms, or as applied to any person or circumstance, shall
24 be construed so as to give it the maximum effect permitted
25 by law, unless such holding is that the provision of law

1 is invalid or unenforceable, in which event such provision
2 shall be deemed severable from this Act and shall not af-
3 fect the remainder of this Act, or the application of such
4 provision to other persons not similarly situated or to
5 other, dissimilar circumstances.

