

# HB376 INTRODUCED



1 HB376  
2 USLMGDX-1  
3 By Representatives Yarbrough, Harrison, Butler, Whorton, Kiel,  
4 Pettus, Underwood, Treadaway  
5 RFD: Public Safety and Homeland Security  
6 First Read: 21-Mar-24



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SYNOPSIS:

Under existing law, the Attorney General may enter into a memorandum of agreement with the United States Department of Homeland Security concerning the enforcement of federal immigration laws, detentions and removals, and related investigations in this state by certain state law enforcement officers as designated by the Attorney General.

This bill would provide that state and local law enforcement agencies may enter into memorandums of understanding and agreements with the United States Department of Justice, the Department of Homeland Security, and any other federal agency for the purpose of enforcing federal immigration and customs laws and the detention, removal, and investigation of illegal aliens and the immigration status of any person in this state.

This bill would require state and local government employees to send, receive, and maintain information relating to the immigration status of any individual as required for public safety purposes.

This bill would allow state and local law enforcement officers to transport an illegal alien to the custody of the federal government.

This bill would allow state and local law



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29 enforcement officers to arrest an illegal alien based  
30 on his or her status as an illegal alien or for a  
31 violation of any federal immigration law.

32 This bill would provide for penalties for  
33 noncompliance.

34 This bill would provide for standard procedures  
35 for intake and booking of illegal aliens and foreign  
36 nationals in county and municipal jails and would  
37 provide for penalties for violations.

38 This bill would require county and municipal  
39 jails to honor immigration detainer requests issued by  
40 the Department of Homeland Security in certain  
41 circumstances.

42 This bill would also require quarterly reports  
43 by county and municipal jails regarding foreign  
44 nationals.

45 Section 111.05 of the Constitution of Alabama of  
46 2022, prohibits a general law whose purpose or effect  
47 would be to require a new or increased expenditure of  
48 local funds from becoming effective with regard to a  
49 local governmental entity without enactment by a 2/3  
50 vote unless: it comes within one of a number of  
51 specified exceptions; it is approved by the affected  
52 entity; or the Legislature appropriates funds, or  
53 provides a local source of revenue, to the entity for  
54 the purpose.

55 The purpose or effect of this bill would be to  
56 require a new or increased expenditure of local funds



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57 within the meaning of the section. However, the bill  
58 does not require approval of a local governmental  
59 entity or enactment by a 2/3 vote to become effective  
60 because it comes within one of the specified exceptions  
61 contained in the section.

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to illegal immigration; to designate Sections 31-13-1 through 31-13-35 as Article 1 of Chapter 13 of Title 31, Code of Alabama 1975; to add Article 2, commencing with Section 31-13-50, to Chapter 13 of Title 31, Code of Alabama 1975; to create the Laken Riley Act; to allow state and local law enforcement agencies to enter into memorandums of understanding and agreements with federal agencies to enforce federal immigration laws; to provide for procedures involving the arrest, detention, and transportation of illegal aliens; to provide for standard procedures for intake and booking of illegal aliens and foreign nationals in county and municipal jails; to require county and municipal jails to honor immigration detainer requests in certain circumstances; to require county and municipal jails to make quarterly reports regarding foreign nationals; to provide for penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased



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85 expenditure of local funds within the meaning of Section  
86 111.05 of the Constitution of Alabama of 2022.

87 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

88 Section 1. This act shall be known and may be cited as  
89 the Laken Riley Act.

90 Section 2. Sections 31-13-1 through 31-13-35 of Chapter  
91 13 of Title 31, Code of Alabama 1975, are designated as  
92 Article 1.

93 Section 3. Article 2, commencing with Section 31-13-50,  
94 is added to Chapter 13, Code of Alabama 1975, to read as  
95 follows:

96 Article 2.

97 §31-13-50

98 As used in this article, the following words have the  
99 following meanings:

100 (1) FOREIGN NATIONAL. An individual who is not a  
101 citizen of the United States.

102 (2) ICE. United States Immigration and Customs  
103 Enforcement Division of the Department of Homeland Security.

104 (3) ILLEGAL ALIEN. An individual who is present in the  
105 United States in violation of the federal Immigration and  
106 Nationality Act.

107 (4) IMMIGRATION DETAINER REQUEST. A federal government  
108 request to a local entity to maintain temporary custody of an  
109 alien, including a United States Department of Homeland  
110 Security Form I-247 document or a similar successor form.

111 (5) JAIL STAFF or JAIL STAFF MEMBER. Any employee of a  
112 county or municipal jail, including, but not limited to, a



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113 corrections officer, deputy assigned to a jail, a jailer, and  
114 administrative support staff.

115 (6) LESC. The Law Enforcement Support Center of the  
116 United States Department of Homeland Security.

117 §31-13-51

118 (a) State and local law enforcement agencies may enter  
119 into memorandums of understanding and agreements with the  
120 United States Department of Justice, Department of Homeland  
121 Security, and any other federal agency for the purpose of  
122 enforcing federal immigration and customs laws and the  
123 detention, removal, and investigation of illegal aliens and  
124 the immigration status of any person in this state. A law  
125 enforcement officer acting within the scope of his or her  
126 authority under any memorandum of understanding, agreement, or  
127 other authorization from the federal government may arrest,  
128 with probable cause, any individual suspected of being an  
129 illegal alien.

130 (b) To the extent authorized by federal law, state and  
131 local government employees, including law enforcement officers  
132 and prosecuting attorneys, shall send, receive, and maintain  
133 information relating to the immigration status of any  
134 individual as reasonably needed for public safety purposes.

135 (c) Except as provided by federal law, no state or  
136 local agency or department shall be prohibited from utilizing  
137 available federal resources, including databases, equipment,  
138 grant funds, training, or participation in incentive programs,  
139 for any public safety purpose relating to the enforcement of  
140 state and federal immigration laws.



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141 (d) When reasonably possible, applicable state agencies  
142 shall consider incentive programs and grant funding for the  
143 purpose of assisting and encouraging state and local agencies  
144 and departments to enter into agreements with federal entities  
145 and to utilize federal resources consistent with this section.

146 (e) If a state or local law enforcement officer has  
147 verification that a person is an illegal alien, the officer  
148 may securely transport the illegal alien to a federal facility  
149 in the state or any other temporary point of detention and may  
150 reasonably detain the illegal alien when authorized by federal  
151 law.

152 (f) Nothing in this section shall be construed to  
153 hinder or prevent a law enforcement officer or law enforcement  
154 agency from arresting or detaining any criminal suspect on  
155 other criminal charges.

156 (g) When authorized by federal law, a state or local  
157 law enforcement officer may arrest any individual based on the  
158 individual's status as an illegal alien or for a violation of  
159 any federal immigration law.

160 (h) If, in the judgment of the Attorney General, an  
161 official, agency of this state, or any political subdivision  
162 thereof is in violation of this section, the Attorney General  
163 shall report the violation to the Governor and the  
164 Comptroller, and that agency or political subdivision may not  
165 receive any funds, grants, or appropriations from the State of  
166 Alabama until the violation has ceased, as certified by the  
167 Attorney General. Any appeal of the determination of the  
168 Attorney General shall be appealed to the civil division of



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169 the circuit court of the respective jurisdiction in which the  
170 alleged offending agency is located.

171 (i) A law enforcement officer or government official or  
172 employee shall have immunity from any damages or liability  
173 when he or she acts in good faith to enforce immigration laws  
174 pursuant to an agreement with federal authorities to collect  
175 or share immigration status information, or in the performance  
176 of any provision of this section.

177 §31-13-52

178 (a) (1) When any individual is confined, for any period,  
179 in a county or municipal jail, a reasonable effort shall be  
180 made to determine the nationality of the person so confined.

181 (2) In the event of a failure of communication between  
182 jail staff and an inmate as a result of language barriers, an  
183 interpreter shall be brought in to assist with the booking and  
184 identification process.

185 (3) If the inmate is unable to provide documentation  
186 indicating his or her lawful status, a jail staff member shall  
187 contact the LESC to determine the inmate's lawful status in  
188 the United States.

189 (4) If the LESC requests a jail staff member procure an  
190 immigration detainer for the inmate and the inmate is still in  
191 custody, the inmate shall not be released until after the  
192 contact is made. If the inmate has already been released prior  
193 to the notification from the LESC, the LESC shall be advised  
194 of this fact.

195 (5) The LESC shall automatically notify ICE of any  
196 inmate who is determined to be an illegal alien.





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197 (6) An inmate who is suspected to be an illegal alien  
198 shall not be detained solely because of the unavailability of  
199 after-hours contact information to determine whether he or she  
200 is an illegal alien.

201 (7) An inmate identified as an illegal alien shall not  
202 be detained on the basis of being an illegal alien unless the  
203 LESC or ICE specifically provides written instructions for  
204 detaining the inmate as an illegal alien. The existence of an  
205 arrest warrant shall be verified with ICE within 24 hours of  
206 the placement of the immigration detainer.

207 (8)a. Inmates shall be held no longer than 48 hours  
208 pursuant to an immigration detainer or an immigration warrant,  
209 unless the warrant is signed by a federal judge or federal  
210 magistrate. An immigration warrant signed by any immigration  
211 official other than a federal judge or federal magistrate  
212 shall be treated as an immigration detainer. If an immigration  
213 warrant signed by a federal judge or federal magistrate is not  
214 received by the jail staff within 48 hours, or if ICE does not  
215 take custody of the inmate within 48 hours, the inmate shall  
216 be eligible for release from the custody.

217 b. This subdivision does not relieve the jail staff of  
218 the requirement to notify the appropriate consulate of foreign  
219 nationals.

220 (9) The jail staff shall maintain in each inmate's file  
221 a record of all communications with ICE.

222 (b) (1) When a suspected foreign national is confined,  
223 for any period, in a county or municipal jail, a reasonable  
224 effort shall be made to verify that the foreign national has



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225 been admitted to the United States and, if lawfully admitted,  
226 that the lawful status has not expired.

227 (2) When a suspected foreign national is admitted into  
228 the jail, a jail staff member shall obtain at least one of the  
229 following documents from the individual to determine whether  
230 he or she has been lawfully admitted to the United States:

231 a. A Form I-94 Arrival/Departure Record issued by the  
232 United States Department of Homeland Security.

233 b. A valid, unexpired passport indicating that a visa  
234 was issued.

235 c. A permanent resident alien card Form 551.

236 d. A valid Nexus card.

237 e. A valid global entry identification card issued by  
238 the United States Department of Homeland Security.

239 f. A valid passport indicating the bearer is a citizen  
240 of a country participating in a visa waiver program  
241 administered by the United States Department of State.

242 (3) If a suspected foreign national does not produce a  
243 copy of one of the documents set forth in subdivision (2), or  
244 if verification of any document is required, a jail staff  
245 member shall contact the LESC or ICE for a determination of  
246 the nationality and immigration status of the suspected  
247 foreign national.

248 (c) If a newly admitted inmate claims to be a consular  
249 officer or to have diplomatic status and the inmate is unable  
250 to produce the proper credentials or verification of  
251 diplomatic status as required, a jail staff member shall  
252 contact the United States Department of State during its



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253 normal working hours or the Command Center of the Office of  
254 Security of the United States Department of State outside of  
255 working hours to request verification of the inmate's status  
256 as a consular officer or of other diplomatic status. Once an  
257 inmate's status is verified as a consular officer or diplomat,  
258 he or she shall be immediately released.

259 (d) Nothing in this section shall be construed to deny  
260 an inmate bond or from being released from confinement when  
261 the inmate is otherwise eligible for release; provided,  
262 however, that, upon verification that any inmate confined in a  
263 jail is an illegal alien, the inmate may be detained,  
264 arrested, and transported as authorized by state and federal  
265 law.

266 (e) (1) It shall be unlawful for any jail staff member  
267 to violate this section.

268 (2) A violation of this section is a Class A  
269 misdemeanor. A second or subsequent violation of this section  
270 is a Class C felony.

271 §31-13-53

272 (a) A county or municipal jail that has custody of an  
273 inmate who is subject to an immigration detainer request  
274 issued by ICE shall:

275 (1) Comply with, honor, and fulfill any request made in  
276 the immigration detainer request; and

277 (2) Inform the inmate identified in the immigration  
278 detainer request that the inmate is being held pursuant to an  
279 immigration detainer.

280 (b) Subsection (a) does not apply to an inmate who has



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281 provided proof that he or she is a citizen of the United  
282 States. Proof of citizenship may include, but is not limited  
283 to:

284 (1) A driver license or nondriveridentification card  
285 issued by the Alabama State Law Enforcement Agency; or

286 (2) A government issued identification issued by the  
287 federal government or another state.

288 §31-13-54

289 (a) A state, county, and local jail, at least  
290 quarterly, shall prepare a report to be posted on the jail's  
291 website and on the website of the Alabama State Law  
292 Enforcement Agency and shall include:

293 (1) The total number of inmates booked into the jail;

294 (2) The total number of foreign national inmates  
295 included in the total provided for in subdivision (1);

296 (3) The total number of inquiries made to LESC or any  
297 other federal agency inquiring about the immigration status or  
298 prior arrests of foreign national inmates;

299 (4) The total number of responses from any inquiry  
300 under subdivision (3);

301 (5) The total number of responses as provided for in  
302 subdivision (4) that indicate a foreign national inmate to be  
303 unlawfully within the United States;

304 (6) Any information about the inmate's lawful entry  
305 into the United States, including the date of entry and visa  
306 type if the length of the inmate's stay in the United States  
307 is not authorized by his or her visa;

308 (7) The number of immigration detainers issued by the



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309 United States Immigration and Customs Enforcement Division of  
310 the Department of Homeland Security for inmates in the jail;  
311 and

312 (8) A statement by the sheriff, chief of police, or his  
313 or her designee verifying that all requirements of Section  
314 31-13-52 have been complied with and that the jail is in  
315 compliance with all applicable laws.

316 Section 4. Although this bill would have as its purpose  
317 or effect the requirement of a new or increased expenditure of  
318 local funds, the bill is excluded from further requirements  
319 and application under Section 111.05 of the Constitution of  
320 Alabama of 2022, because the bill defines a new crime or  
321 amends the definition of an existing crime.

322 Section 5. This act shall become effective on June 1,  
323 2024.