



SENATE BILL 153: North Carolina Border Protection Act.

2025-2026 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: February 27, 2025
Introduced by: Sens. Berger, Daniel, B. Newton	Prepared by: Robert Ryan
Analysis of: First Edition	Kristen L. Harris Staff Attorneys

OVERVIEW: *Senate Bill 153 would do the following:*

- **Require the Secretary of the Department of Public Safety (DPS), the Secretary of the Department of Adult Correction (DAC), the Commander of the State Highway Patrol (SHP), and the Director of the State Bureau of Investigation (SBI), to enter into agreements with U.S. Immigration and Customs Enforcement (ICE) and adopt certain other policies to cooperate with ICE.**
- **Require the Office of State Budget and Management (OSBM) to examine "covered State public benefits programs" to determine whether, and the extent to which, the benefits are being provided to unauthorized aliens.**
- **Waive governmental immunity from tort liability for cities and counties that adopt sanctuary ordinances and when an unauthorized alien commits a crime against a person or property within the corporate limits of the city or county, whether or not insurance has been purchased.**
- **Prohibit constituent institutions of The University of North Carolina from having policies or procedures that limit the enforcement of federal immigration laws to less than the full extent permitted by federal law.**

CURRENT LAW AND BILL ANALYSIS:

Section 1

Section 287(g) of the Immigration and Nationality Act (8 U.S.C. § 1357(g)) authorizes State or local law enforcement agencies to perform immigration law enforcement pursuant to federal law if the agency enters into a Memorandum of Agreement (MOA) with the federal government.

Under North Carolina law subsection (c1) of G.S. 128-1.1, Dual office holding allowed, provides the following: "Where authorized by federal law, any State or local law enforcement agency may authorize its law enforcement officers to also perform the functions of an officer under 8 U.S.C. § 1357(g) if the agency has a Memorandum of Agreement or Memorandum of Understanding for that purpose with a federal agency. State and local law enforcement officers authorized under this provision are authorized to hold any office or position with the applicable federal agency required to perform the described functions."

On January 20, 2025, the President of the United States issued Executive Order 14159 directing the Secretary of Homeland Security, to the maximum extent permitted by law, and with the consent of State or local officials, to take appropriate action through agreements under Section 287(g) to authorize State and local law enforcement officials to perform the functions of immigration officers.

Kara McCraw
Director



Legislative Analysis
Division
919-733-2578

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Section 1 of the bill would direct the Secretary of the DPS, the Secretary of the DAC, the Commander of the SHP, and the Director of the SBI to do all the following:

- Enter into MOAs with the Director of ICE pursuant to Section 287(g) to perform immigration law enforcement functions under the supervision of ICE.
- Develop policies requiring employees of each agency to do all the following:
 - Have employees attempt to determine if any person in the custody of or under the supervision of the agency is a legal resident or citizen of the United States by asking the person questions or examining relevant documents.
 - If an employee is not able to determine a person's status by conducting the above inquiry, then the employee must make an ICE query.
 - If an employee determines that the person is not a legal resident or citizen of the United States, then the employee shall provide information requested by ICE.
- Cooperate to the fullest extent allowed by law with ICE.
- Report the MOAs and policies required by this bill to the Joint Legislative Oversight Committee on Justice and Public Safety no later than August 1, 2025.

The State Auditor would be required to perform an audit to determine that agencies are complying with the above requirements.

Section 2

Section 2 would require the Office of State Budget and Management (OSBM) to examine "covered State public benefits programs" to determine whether, and the extent to which, the benefits are being provided to unauthorized aliens. OSBM would complete the examination and publish its findings on its website by December 31, 2025. OSBM would take steps to ensure the programs are not being used to benefit unauthorized aliens beyond that which is required by federal law and report to the General Assembly by January 15, 2026, and every year thereafter on the steps taken, and the resulting success, of those steps.

Would define "covered State public benefits programs."

Section 3

North Carolina law prohibits cities (G.S. 160A-205.2) and counties (G.S. 153A-145.5) from having in effect any policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law. Cities and counties are also precluded from doing any of the following related to information regarding the citizenship or immigration status, lawful or unlawful, of any individual:

- Prohibiting law enforcement officials or agencies from gathering such information.
- Directing law enforcement officials or agencies not to gather such information.
- Prohibiting the communication of such information to federal law enforcement agencies.

Cities (G.S. 160A-485 and G.S. 160A-485.5) and counties (G.S. 153A-435) may waive governmental immunity from civil liability in tort by the act of purchasing liability insurance.

Section 3 would waive governmental immunity from tort liability for cities and counties that 1) adopt sanctuary ordinances, and 2) when an unauthorized alien commits a crime against a person or property within the corporate limits of the city or county, whether or not insurance has been purchased.

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Section 4

The federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA) protects the privacy of student education records and applies to all education agencies and institutions that receive funds under any U.S. Department of Education program. FERPA generally requires written consent before an institution of higher education can disclose personally identifiable information from a student's education records. Exceptions to this consent requirement include (i) when there is a health or safety emergency and (ii) when a court order or subpoena requires the disclosure.

Section 4 would prohibit constituent institutions of The University of North Carolina from having policies or procedures that limit the enforcement of federal immigration laws to less than the full extent permitted by federal law. Constituent institutions would not be allowed to do any of the following with respect to information about an individual's citizenship or immigration status:

- Prohibit law enforcement officials or agencies from gathering the information.
- Direct law enforcement officials or agencies not to gather the information.
- Prohibit communication of the information to federal law enforcement agencies.

EFFECTIVE DATE: This act is effective when it become law.