

**SECTION 104.  
COOPERATIVE IMMIGRATION LAW ENFORCEMENT.<sup>1</sup>**

**IRLI Comment:** Federal law expressly states that a formal cooperative agreement is *not* necessary for local agencies to enforce immigration law. See 8 USC 1357(g)(10). However, negotiation of a 287g agreement provides important practical benefits: Local law enforcement officers trained and designated per a 287g agreement receive federal limited immunity while lawfully performing immigration enforcement functions. A 287g agreement usually establishes an interagency protocol on verification of immigration status and transfer of illegal aliens into federal custody, significantly improving the probability that U.S. ICE will take custody of the subject aliens from the local agency.

(A) Performance of immigration officer functions by state officers and employees.

(1) The [state] Department of Justice is authorized and directed to negotiate the terms of a memorandum of understanding between this state and the United States Department of Homeland Security providing for the designation of appropriate officers or employees of the state or a political subdivision, to include appropriate employees of the ##### Highway Patrol, as qualified to perform the function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States, including the transportation of such aliens across state lines for transfer into federal custody.

(2) The agreement under this section shall provide that officers or employees designated as qualified to perform the functions of an immigration officer shall have the knowledge and training to adhere to federal law relating to the function.

(3) The terms of the memorandum of understanding to be negotiated shall be in accord with the provisions of United States Code Title 8 Section 1357<sup>2</sup>, regulating the content and operation of

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<sup>1</sup> OK HB 1804 § 10, 8 USC 1357(g).

<sup>2</sup>“(g) Performance of immigration officer functions by State officers and employees.

(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a

such agreements.

(4) The Memorandum of Understanding negotiated pursuant to subsection A of this section shall be signed on behalf of this state by the Attorney General and the Governor.

(5) Nothing in this section shall be construed to require the existence of an agreement under this section in order for any officer or employee of this state or a political subdivision therein to communicate with the federal government regarding the immigration status of any individual, or otherwise to cooperate among such government entities or with the federal government, in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States, to the full extent permitted by law.

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State shall be subject to the direction and supervision of the Attorney General.

(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code [5 USCS §§ 8101 et seq.] (relating to compensation for injury), and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State--

(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.”