

1 **H. B. 3230**

2  
3 (By Delegates J. Miller, Duke, Sobonya and Howell)  
4 [Introduced February 21, 2011; referred to the  
5 Committee on the Judiciary then Finance.]  
6

7 **FISCAL**  
8 **NOTE**

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new chapter, designated §61A-1-1, §61A-1-2  
12 and §61A-1-3, all relating to creating the "Immigration Law  
13 Enforcement Act;" requiring state and local law-enforcement  
14 agencies to assist in the enforcement of federal immigration  
15 laws; and setting forth legislative intent.

16 *Be it enacted by the Legislature of West Virginia:*

17 That the Code of West Virginia, 1931, as amended, be amended  
18 by adding thereto a new chapter, designated §61A-1-1, §61A-1-2 and  
19 §61A-1-3, all to read as follows:

20 **CHAPTER 61A. IMMIGRATION.**

21 **ARTICLE 1. IMMIGRATION LAW ENFORCEMENT ACT.**

22 **§61A-1-1. Short title.**

23 This article may be cited as the "Immigration Law Enforcement  
24 Act."

1 §61A-1-2. Cooperation and assistance in enforcement of immigration  
2 laws.

3 (a) All officials, agencies and personnel of this state and  
4 counties, cities and towns of this state shall fully comply with  
5 and, to the full extent permitted by law, assist in the enforcement  
6 of federal immigration laws of the United States. For every arrest  
7 made by these officials, agencies and personnel, the citizenship of  
8 the person shall be determined. If the person who is arrested is  
9 an alien, the person's immigration status shall be verified with  
10 the federal government pursuant to 8 U.S.C. §1373(c). If the  
11 person is an alien who is unlawfully present in the United States  
12 and this state or a local governmental entity elects not to  
13 prosecute the person for a violation of state or local law, the  
14 person shall be transferred to the custody of the United States  
15 immigration and customs enforcement or United States customs and  
16 border protection. If an alien who is unlawfully present in the  
17 United States is acquitted of any violation of state or local law,  
18 is discharged from imprisonment or pays any fine imposed, the alien  
19 shall immediately be transferred to the custody of United States  
20 immigration and customs enforcement. If the unauthorized alien is  
21 convicted of a crime, the alien must complete the full sentence  
22 before being released to the custody of the United States  
23 immigration and customs enforcement or United States customs and  
24 border protection.

25 (b) Except as provided in federal law, officials, agencies or

1 personnel of this state and counties, cities and towns of this  
2 state may not be prohibited or in anyway restricted from sending,  
3 receiving or maintaining information relating to the immigration  
4 status, lawful or unlawful, of any individual or exchanging that  
5 information with any other federal, state or local governmental  
6 entity for the following official purposes:

7 (1) Determination of eligibility for any federal, state or  
8 local public benefit, service or license that is restricted, in  
9 whole or in part, on the basis of immigration status;

10 (2) Verification of any claim of legal domicile if legal  
11 domicile is required by law or contract; or

12 (3) Confirmation of the identity of any person who is  
13 detained.

14 (c) Any law-enforcement agency in this state that adopts or  
15 implements any policy preventing or limiting its officers from  
16 inquiring into the immigration status of any person or reporting to  
17 the federal government an alien who is unlawfully present in the  
18 United States shall be ineligible for any state funding. A law-  
19 enforcement agency is deemed to be in violation of this subsection  
20 if the Attorney General or a county prosecuting attorney determines  
21 that a violation has occurred.

22 **§61A-1-3. Legislative intent.**

23 The requirements and obligations of this measure shall be  
24 implemented in a manner fully consistent with federal law  
25 regulating immigration and protecting the civil rights of citizens

1 and aliens, including compliance with the federal cases of United  
2 States v. Dire, 332 U.S. 581 (1948), United States v. Janik, 723  
3 F.2d 537 (7th Cir. 1983) and United States v. Salinas Calderon, 728  
4 F.2d 1298 (10th Cir. 1984) and compliance with 8 U.S.C. §1644.

NOTE: The purpose of this bill is to create the "Immigration Law Enforcement Act." The bill requires state and local law-enforcement agencies to assist in the enforcement of federal immigration laws. The bill also sets forth legislative intent.

This chapter is new; therefore, it has been completely underscored.