

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5477

By Delegates Ridenour, Funkhouser, Butler,

Hillenbrand, Phillips, B. Ward, and Holstein

[Introduced February 12, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend the code of West Virginia, 1931, as amended, by adding thirteen new sections,
 2 designated §15-16-10, §15-16-11, §15-16-12, §15-16-13, §15-16-14, §15-16-15, §15-16-
 3 16, §15-16-17, §15-16-18, §15-16-19, §15-16-20, §15-16-21, and §15-16-22, relating to
 4 federal immigration enforcement; supplementing and expanding existing cooperation
 5 requirements; mandating participation by state-supported law enforcement agencies in the
 6 federal 287(g) program; requiring detention facilities of a specified operational capacity to
 7 seek and maintain the Jail Enforcement Model; authorizing use of the Warrant Service
 8 Officer Model only upon written federal denial; establishing minimum operational
 9 standards; providing for reporting and audits; authorizing enforcement by the Attorney
 10 General; requiring withholding of certain state funds for noncompliance; providing
 11 immunity; providing for rulemaking; and providing for severability and an effective date

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. FEDERAL IMMIGRATION ENFORCEMENT.

§15-16-10. Legislative findings; construction; purpose

- 1 (a) The Legislature finds that:
- 2 (1) Federal law authorizes the United States Department of Homeland Security, through
- 3 United States Immigration and Customs Enforcement, to enter into written agreements under 8
- 4 U.S.C. §1357(g) to delegate specified immigration enforcement functions to trained and certified
- 5 state and local officers;
- 6 (2) This article establishes statewide requirements prohibiting policies that materially
- 7 restrict cooperation with federal immigration enforcement and requiring compliance with lawful
- 8 immigration detainers and related requests;
- 9 (3) The federal government offers multiple operational models for 287(g) agreements,
- 10 including jail-based models and models authorizing trained officers to serve and execute
- 11 administrative immigration warrants within detention facilities;
- 12 (4) Detention facilities of larger operational capacity have greater volume, higher

13 throughput, and greater operational ability to implement structured jail-based cooperation models,
 14 and therefore should be required to pursue the most comprehensive jail-based 287(g) model
 15 offered by ICE;

16 (5) The state has a compelling interest in conditioning the receipt of state public-safety
 17 funds upon baseline cooperation standards with federal immigration enforcement within detention
 18 settings and in preventing the adoption of policies by covered agencies that materially restrict such
 19 lawful cooperation; and

20 (6) The Legislature further finds that transparency, reporting, and enforceable
 21 accountability mechanisms are necessary to ensure uniform compliance across all state-
 22 supported law enforcement agencies and detention facilities receiving state funds or state-
 23 administered aid.

24 (b) Construction. Sections §15-16-10 through §15-16-22 of this code supplement and
 25 expand this article. Nothing herein limits any obligation, authority, or enforcement mechanism
 26 provided elsewhere in this article. In the event of overlap, the more specific provisions of these
 27 sections govern with respect to mandatory 287(g) participation, program model selection,
 28 reporting, and funding enforcement.

29 (c) The purpose of these sections is to ensure that public funds supporting law
 30 enforcement, corrections, and detention operations in this state are conditioned upon uniform
 31 cooperation with federal immigration enforcement through formal participation in the federal
 32 287(g) program; to require larger detention facilities to seek and maintain the most comprehensive
 33 jail-based model offered by ICE; to provide a limited fallback model upon documented federal
 34 denial; and to establish reporting, audit, and enforceable accountability mechanisms, including
 35 mandatory withholding of specified state funds for noncompliance.

§15-16-11. Definitions.

1 For purposes of §15-16-10 through §15-16-22 of this code:

2 (1) "287(g) agreement" or "MOA" means a written memorandum of agreement executed

3 with ICE pursuant to 8 U.S.C. §1357(g).

4 (2) "ICE" means the United States Immigration and Customs Enforcement, or its
5 successor agency.

6 (3) "State-supported law enforcement agency" means:

7 (A) The State Police and any state agency with sworn law enforcement officers;

8 (B) Any county sheriff's office;

9 (C) Any municipal police department; and

10 (D) Any regional jail authority, facility operator, or contracted detention provider operating
11 in West Virginia; to the extent the agency or operator receives state funds, state grants, state-
12 administered reimbursements, or state-aid distributions for law enforcement, corrections, or
13 detention operations, or operates any detention facility that houses persons on behalf of the state
14 or political subdivisions.

15 (4) "Detention facility" means any jail, regional jail, correctional facility, or holding center, or
16 other facility in which persons are held in custody.

17 (5) "Jail Enforcement Model" or "JEM" means a 287(g) program authorizing trained
18 detention officers to perform immigration enforcement functions within a jail or detention facility,
19 including the identification, processing, and service of immigration documents on persons already
20 in custody.

21 (6) "Warrant Service Officer Model" or "WSO" means a 287(g) program authorizing trained
22 officers to serve and execute administrative immigration warrants within a detention facility.

23 (7) "Operational capacity" means the maximum number of persons a detention facility is
24 authorized or configured to house at any time, including permanent beds, temporary bunks,
25 modular units, and any other housing counted for staffing, funding, or regulatory purposes.

26 (8) "Administrative warrant" includes an ICE administrative warrant issued under federal
27 immigration authority.

28 (9) "Qualified ICE action" means an administrative warrant, detainer accompanied by an

29 administrative warrant, or other written federal immigration process recognized under an executed
30 MOA.

§15-16-12. Mandatory participation in the federal 287(g) program.

1 (a) Every state-supported law enforcement agency, as that term is defined in §30-29-1 of
2 this code, shall apply for, execute, and maintain an active 287(g) memorandum of agreement with
3 ICE.

4 (1) Within 60 days of the effective date of this article, each agency shall submit a complete
5 application or reactivation request to ICE.

6 (2) Within 180 days, each agency shall have executed an MOA, unless ICE provides
7 written notice that processing is pending despite good-faith compliance; provided, that agencies
8 shall comply with §15-16-14 of this code during any pendency period.

9 (b) Agencies shall renew, reauthorize, or amend MOAs in a timely manner as required by
10 ICE and shall maintain training/certification levels necessary to keep the MOA in good standing.

§15-16-13. Required 287(g) program model based on facility size.

1 (a) Any detention facility with an operational capacity of 300 or more beds shall apply for,
2 execute, and maintain a 287(g) Memorandum of Agreement under the Jail Enforcement Model.

3 (b) A facility subject to subsection (a) may operate under the Warrant Service Officer
4 ("WSO") Model only if ICE issues a written denial of the Jail Enforcement Model.

5 (c) If denied, the agency or facility shall, within sixty days, execute a WSO agreement and
6 shall reapply annually for the Jail Enforcement Model unless ICE provides written notice that
7 reapplication is unnecessary.

8 (d) Facilities below 300 beds shall be included under the WSO Model or a functionally
9 equivalent 287(g) program offered by ICE.

10 (e) ICE denial documentation shall be filed with the Attorney General and the State
11 Treasurer.

12 (f) Circumvention prohibited. A covered agency or political subdivision may not evade the

13 requirements of this section by reclassifying beds, limiting intake, or administratively reducing
14 reported capacity while retaining the operational ability to house three hundred or more persons.

§15-16-14. Minimum cooperation standards.

1 (a) Each covered agency shall adopt written policies requiring:

2 (1) Information sharing with ICE consistent with state and federal law;

3 (2) Inquiry/verification of immigration-status verification when a qualified ICE action exists;

4 (3) Notification of release. Reasonable advance notice to ICE of the release date/time of
5 any inmate subject to a qualified ICE action; and

6 (4) Transfer coordination. Reasonable coordination to facilitate lawful transfer of custody at
7 the time of release or as otherwise provided under the MOA.

8 (b) No obstruction. A covered agency may not adopt or enforce a policy that prohibits or
9 materially restricts personnel from:

10 (1) Communicating with ICE regarding the immigration status of any person lawfully in
11 custody; or

12 (2) Complying with lawful obligations undertaken in the agency’s executed 287(g) MOA.

13 (3) Any identified obstruction will be turned over to the Attorney General for administrative,
14 including actions under §15-16-6 of this code, and civil and criminal actions.

15 (c) Nothing herein authorizes any act inconsistent with the Constitutions of the United
16 States or West Virginia, or controlling federal law.

§15-16-15. Training and designated liaisons.

1 (a) Each covered agency shall designate an ICE liaison officer and ensure sufficient
2 personnel are trained and certified as required by the applicable 287(g) model.

3 (b) Each detention facility operator and each sheriff’s office operating a jail shall ensure
4 sufficient personnel are trained and certified as required by the MOA and ICE program model.

§15-16-16. Reporting and transparency.

1 (a) Semi-annually, each covered agency shall report to the Attorney General and the Joint

2 Committee on Government Organization:

- 3 (1) Current MOA status (active, pending, suspended, terminated);
- 4 (2) The 287(g) model(s) used;
- 5 (3) Number of personnel trained/certified under the MOA; and
- 6 (4) Aggregate counts (without personal identifying information) of:
 - 7 (A) Notifications to ICE under §15-16-14 of this code; and
 - 8 (B) Transfers of custody coordinated under §15-16-14 of this code.
- 9 (b) The Attorney General shall publish an annual statewide compliance report.

§15-16-17. Audits; compliance reviews.

1 The Attorney General may conduct audits, request records, and require corrective action
2 plans.

§15-16-18. Enforcement; notice and cure.

- 1 (a) If the Attorney General determines an agency is not in compliance, the Attorney
2 General shall issue written notice specifying deficiencies.
- 3 (b) The agency shall have 30 days to cure or submit a corrective action plan.
- 4 (c) If not cured, the Attorney General may:
 - 5 (1) Seek declaratory and injunctive relief;
 - 6 (2) Seek mandamus to compel compliance; and
 - 7 (3) Refer the matter for funding actions under §15-16-20 of this code.

§15-16-19. Withholding of state funds for noncompliance

- 1 (a) Mandatory withholding. Upon a final determination of noncompliance, the State
2 Treasurer shall withhold state funds otherwise distributed to the noncompliant agency or political
3 subdivision for law enforcement, corrections, detention, public safety grants, or other state-
4 administered public safety aid, as identified by the Treasurer in consultation with the Department
5 of Administration.
- 6 (b) Withheld funds shall be escrowed for up to one hundred eighty days. If cured within that

7 period, escrowed funds shall be released. If not cured within that period, escrowed funds shall
8 lapse and be redistributed to compliant agencies.

9 (c) A detention facility required to operate under the Jail Enforcement Model that operates
10 solely under the WSO Model without qualifying ICE denial is per se noncompliant.

11 (d) Before withholding begins, the agency may request an administrative hearing within 15
12 days of notice. The hearing shall be conducted under procedures established by legislative rule
13 promulgated by the Treasurer.

14 (e) No waivers. The Treasurer may not waive withholding required by this section, except
15 where the agency demonstrates by clear and convincing evidence that ICE has refused to process
16 or execute the MOA despite the agency’s complete, timely, and ongoing good-faith compliance.

§15-16-20. Rulemaking.

1 The State Treasurer and Attorney General may propose rules for legislative approval
2 pursuant to the provisions of §29A-3-1 et seq. of this code to implement §15-16-10 through §15-
3 16-19 of this code.

§15-16-21. Immunity.

1 Covered agencies and personnel acting within the scope of their duties and in good-faith
2 reliance on this article or an executed MOA are immune from civil liability to the extent permitted by
3 law, except for willful misconduct or gross negligence.

§15-16-22. Severability; effective date.

1 (a) The provisions of §15-16-10 through §15-16-22 of this code are severable.

2 (b) The amendments to this article as enacted in the 2026 Regular Session of the
3 Legislature shall take effect April 1, 2026.

NOTE: The purpose of this bill relates to federal immigration enforcement. The bill supplements and expands existing cooperation requirements. The bill mandates participation by state-supported law enforcement agencies in the federal 287(g) program. The bill requires detention facilities of a specified operational capacity to seek and maintain the Jail Enforcement Model. The bill authorizes use of the Warrant Service Officer Model

only upon written federal denial. The bill establishes minimum operational standards. The bill provides for reporting and audits. The bill authorizes enforcement by the Attorney General. The bill requires withholding of certain state funds for noncompliance. The bill provides immunity. The bill provides for rulemaking. Finally, the bill provides for severability and an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.