

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

**127th General Assembly
Regular Session
2007-2008**

Am. S. B. No. 260

Senator Cates

**Cosponsors: Senators Mumper, Seitz, Schuring, Faber, Spada, Austria,
Fedor, Wagoner**

—

A B I L L

To amend sections 9.63, 311.07, and 341.21 of the 1
Revised Code to provide that a board of county 2
commissioners may direct a sheriff to take custody 3
of persons who are being detained for deportation 4
or who are charged with civil violations of 5
immigration law and to expressly authorize state 6
and local employees and county sheriffs to render 7
assistance to federal immigration officials in the 8
investigation and enforcement of federal 9
immigration law. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.63, 311.07, and 341.21 of the 11
Revised Code be amended to read as follows: 12

Sec. 9.63. (A) Notwithstanding any law, ordinance, or 13
collective bargaining contract to the contrary, no state or local 14
employee shall unreasonably fail to comply with any lawful request 15
for assistance made by any federal authorities carrying out the 16
provisions of the USA Patriot Act, any federal immigration or 17

terrorism investigation, or any executive order of the president 18
of the United States pertaining to homeland security, to the 19
extent that the request is consistent with the doctrine of 20
federalism. A federal immigration investigation includes all 21
activities of federal immigration officials related to the 22
investigation, apprehension, and detention of aliens who violate 23
criminal or civil provisions of federal immigration law. 24

(B) No municipal corporation shall enact an ordinance, 25
policy, directive, rule, or resolution that would materially 26
hinder or prevent local employees from complying with the USA 27
Patriot Act or any executive order of the president of the United 28
States pertaining to homeland security or from cooperating with 29
state or federal immigration services and terrorism 30
investigations. 31

(C)(1) Any municipal corporation that enacts any ordinance, 32
policy, directive, rule, or resolution that division (B) of this 33
section prohibits is ineligible to receive any homeland security 34
funding available from the state. 35

(2) Whenever the director of public safety determines that a 36
municipal corporation has enacted any ordinance, policy, 37
directive, rule, or resolution that division (B) of this section 38
prohibits, the director shall certify that the municipal 39
corporation is ineligible to receive any homeland security funding 40
from the state and shall notify the general assembly of that 41
ineligibility. That municipal corporation shall remain ineligible 42
to receive any homeland security funding from the state until the 43
director certifies that the ordinance, policy, directive, rule, or 44
resolution has been repealed. 45

(D)(1) If a state or local employee states disagreement with, 46
or a critical opinion of, the USA Patriot Act, any federal 47
immigration or terrorism policy, or any executive order of the 48

president of the United States pertaining to homeland security, 49
the statement of disagreement with or critical opinion of the act 50
or order is not sufficient to qualify for purposes of this section 51
as unreasonable noncompliance with a request for assistance of the 52
type division (A) of this section describes. 53

(2) Any municipal corporation's ordinance, policy, directive, 54
rule, or resolution that states disagreement with, or a critical 55
opinion of, any state or federal immigration or terrorism policy, 56
the USA Patriot Act, or any executive order of the president of 57
the United States pertaining to homeland security is not 58
sufficient to qualify as a "material hindrance or prevention" of 59
local employees from cooperating with federal immigration services 60
and terrorism investigations or from complying with the USA 61
Patriot Act or any executive order of the president of the United 62
States pertaining to homeland security for purposes of divisions 63
(B), (C), and (D) of this section. 64

(E) As used in this section, "USA Patriot Act" means the 65
"Uniting and Strengthening America by Providing Appropriate Tools 66
Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act 67
of 2001," Pub. L. No. 107-056, 115 Stat. 272, as amended. 68

Sec. 311.07. (A) Each sheriff shall preserve the public peace 69
and cause all persons guilty of any breach of the peace, within 70
the sheriff's knowledge or view, to enter into recognizance with 71
sureties to keep the peace and to appear at the succeeding term of 72
the court of common pleas, and the sheriff shall commit such 73
persons to jail in case they refuse to do so. The sheriff shall 74
return a transcript of all the sheriff's proceedings with the 75
recognizance so taken to such court. The sheriff shall, except as 76
provided in division (C) of this section, execute all warrants, 77
writs, and other process directed to the sheriff by any proper and 78
lawful authority of this state, and those issued by a proper and 79

lawful authority of any other state. The sheriff shall attend upon 80
the court of common pleas and the court of appeals during their 81
sessions, and, when required, shall attend upon the probate court. 82
In the execution of official duties of the sheriff, the sheriff 83
may call to the sheriff's aid such persons or power of the county 84
as is necessary. Under the direction and control of the board of 85
county commissioners, such sheriff shall have charge of the court 86
house. A sheriff or deputy sheriff of a county may participate, as 87
the director of an organized crime task force established under 88
section 177.02 of the Revised Code or as a member of the 89
investigatory staff of such a task force, in an investigation of 90
organized criminal activity in any county or counties in this 91
state under sections 177.01 to 177.03 of the Revised Code. A 92
sheriff, upon the request of federal immigration officials, may 93
render assistance to those officials related to the investigation, 94
apprehension, and detention of aliens who violate criminal or 95
civil provisions of federal immigration law. 96

(B) The sheriff of a county may call upon the sheriff of any 97
other county, the mayor or other chief executive of any municipal 98
corporation, and the chairperson of the board of township trustees 99
of any township within this state, to furnish such law enforcement 100
or fire protection personnel, or both, together with appropriate 101
equipment and apparatus, as may be necessary to preserve the 102
public peace and protect persons and property in the requesting 103
sheriff's county. Such aid shall be furnished to the sheriff 104
requesting it, insofar as possible without withdrawing from the 105
political subdivision furnishing such aid the minimum police and 106
fire protection appearing necessary under the circumstances. Law 107
enforcement and fire protection personnel acting outside the 108
territory of their regular employment shall be considered as 109
performing services within the territory of their regular 110
employment for the purposes of compensation, pension or indemnity 111
fund rights, workers' compensation, and other rights or benefits 112

to which they may be entitled as incidents of their regular 113
employment. The county receiving aid shall reimburse, as provided 114
in this section, the political subdivision furnishing it the cost 115
of furnishing such aid, including compensation of personnel, 116
expenses incurred by reason of the injury or death of any such 117
personnel while rendering such aid, expenses of furnishing 118
equipment and apparatus, compensation for damage to or loss of 119
equipment or apparatus while in service outside the territory of 120
its regular use, and such other reasonable expenses as may be 121
incurred by any such political subdivision in furnishing aid. The 122
cost of furnishing such aid may be paid from the sheriff's 123
furtherance of justice fund created pursuant to section 325.071 of 124
the Revised Code or from the law enforcement trust fund created 125
pursuant to section 2981.13 of the Revised Code, or from the 126
county general fund to the extent moneys have been appropriated 127
for such purposes pursuant to section 5705.38 of the Revised Code 128
unless the board of county commissioners adopts a resolution 129
restricting or prohibiting the use of general fund moneys without 130
the prior approval of the board of county commissioners. Nothing 131
in this section shall be construed as superseding or modifying in 132
any way any provision of a contract entered into pursuant to 133
section 311.29 of the Revised Code. Law enforcement officers 134
acting pursuant to this section outside the territory of their 135
regular employment have the same authority to enforce the law as 136
when acting within the territory of their regular employment. 137

(C) The sheriff shall not execute process that is issued in a 138
state other than this state, unless the process contains either of 139
the following: 140

(1) A certification by the judge of the court that issued the 141
process stating that the issuing court has jurisdiction to issue 142
the process and that the documents being forwarded conform to the 143
laws of the state in which the court is located; 144

(2) If the process is an initial summons to appear and defend 145
issued after the filing of a complaint commencing an action, a 146
certification by the clerk of the court that issued the process 147
stating that the process was issued in conformance with the laws 148
of the state in which the court is located. 149

(D) As used in this section and section 311.08 of the Revised 150
Code, "proper and lawful authority" means any authority authorized 151
by law to issue any process and "process" means those documents 152
issued in this state in accordance with section 7.01 of the 153
Revised Code and those documents, other than executions of 154
judgments or decrees, issued in a state other than this state that 155
conform to the laws of the state of issuance governing the 156
issuance of process in that state. 157

Sec. 341.21. (A) The board of county commissioners may direct 158
the sheriff to receive into custody prisoners charged with or 159
convicted of crime by the United States, including, upon the 160
request of federal immigration officials, those persons being 161
detained for deportation or charged with a civil violation of 162
immigration law by federal immigration officials, and to keep 163
those prisoners until discharged. 164

The board of the county in which prisoners charged with or 165
convicted of crime by the United States may be so committed may 166
negotiate and conclude any contracts with the United States for 167
the use of the jail as provided by this section and as the board 168
sees fit. 169

A prisoner so committed shall be supported at the expense of 170
the United States during the prisoner's confinement in the county 171
jail. No greater compensation shall be charged by a sheriff for 172
the subsistence of that type of prisoner than is provided by 173
section 311.20 of the Revised Code to be charged for the 174
subsistence of state prisoners. 175

A sheriff or jailer who neglects or refuses to perform the 176
services and duties directed by the board by reason of this 177
division, shall be liable to the same penalties, forfeitures, and 178
actions as if the prisoner had been committed under the authority 179
of this state. 180

(B) Prior to the acceptance for housing into the county jail 181
of persons who are designated by the department of rehabilitation 182
and correction, who plead guilty to or are convicted of a felony 183
of the fourth or fifth degree, and who satisfy the other 184
requirements listed in section 5120.161 of the Revised Code, the 185
board of county commissioners shall enter into an agreement with 186
the department of rehabilitation and correction under section 187
5120.161 of the Revised Code for the housing in the county jail of 188
persons designated by the department who plead guilty to or are 189
convicted of a felony of the fourth or fifth degree and who 190
satisfy the other requirements listed in that section in exchange 191
for a per diem fee per person. Persons incarcerated in the county 192
jail pursuant to an agreement entered into under this division 193
shall be subject to supervision and control in the manner 194
described in section 5120.161 of the Revised Code. This division 195
does not affect the authority of a court to directly sentence a 196
person who is convicted of or pleads guilty to a felony to the 197
county jail in accordance with section 2929.16 of the Revised 198
Code. 199

(C) Notwithstanding any contrary provision in section 200
2929.18, 2929.28, or 2929.37 or in any other section of the 201
Revised Code, the board of county commissioners may establish a 202
policy that complies with section 2929.38 of the Revised Code and 203
that requires any person who is not indigent and who is confined 204
in the jail under division (B) of this section to pay a reception 205
fee, a fee for any medical treatment or service requested by and 206
provided to that person, or the fee for a random drug test 207

assessed under division (E) of section 341.26 of the Revised Code. 208

(D) If a sheriff receives into custody a prisoner convicted 209
of crime by the United States as described in division (A) of this 210
section, if a person who has been convicted of or pleaded guilty 211
to an offense is incarcerated in the jail in the manner described 212
in division (B) of this section, if a sheriff receives into 213
custody a prisoner charged with a crime by the United States and 214
the prisoner has had bail denied or has had bail set, has not been 215
released on bail, and is confined in jail pending trial, or if a 216
person who has been arrested for an offense, and who has been 217
denied bail or has had bail set and has not been released on bail 218
is confined in jail pending trial, at the time of reception and at 219
other times the sheriff or other person in charge of the operation 220
of the jail determines to be appropriate, the sheriff or other 221
person in charge of the operation of the jail may cause the 222
convicted or accused offender to be examined and tested for 223
tuberculosis, HIV infection, hepatitis, including, but not limited 224
to, hepatitis A, B, and C, and other contagious diseases. The 225
sheriff or other person in charge of the operation of the jail may 226
cause a convicted or accused offender in the jail who refuses to 227
be tested or treated for tuberculosis, HIV infection, hepatitis, 228
including, but not limited to, hepatitis A, B, and C, or another 229
contagious disease to be tested and treated involuntarily. 230

Section 2. That existing sections 9.63, 311.07, and 341.21 of 231
the Revised Code are hereby repealed. 232