

## Senate File 481 and Frequently Asked Questions (FAQs)

The Governor of Iowa recently signed Senate File 481 which will take effect July 1, 2018. This law requires state and local law enforcement agencies to cooperate with United States Immigration and Customs Enforcement (ICE). This FAQ was prepared by Catholic Charities Immigration Legal Services program to explain the new law and its possible consequences. It serves as a reminder that all people, regardless of immigration status, have certain constitutional rights. This document is intended as legal information only and should not be used as legal advice. If you have questions about how this new law will affect you or your family, we urge you to consult with an immigration attorney.

### What does SF 481 allow?

Senate File 481 instructs local law enforcement to comply with “any instruction made in an ICE detainer request.” In addition, SF 481 forbids law enforcement agencies from having blanket policies in place that stop officers from asking a person about their immigration status, talking to Immigration or other law enforcement about a person’s immigration status, cooperating with ICE, or “enforcing immigration laws.” Under the U.S. Constitution, ICE detainers are merely requests that local law enforcement hold a person for an additional 48 hours. In the past, it has been up to each local law enforcement agency to decide whether or not to honor the request, according to each department’s resources and policies.

### What does SF 481 NOT allow?

- SF 481 does not allow the police to stop or question people for the sole purpose of enforcing immigration laws.
- SF 481 does not allow the police to arrest you just because you do not have any lawful immigration status.
- SF 481 does not require individuals to provide proof of status or otherwise discuss their immigration case with the police.
- SF 481 does not allow any government official to enter your home without permission, unless they have a warrant signed by a judge.

### What is an ICE detainer?

An ICE “detainer” is a request from ICE to local law enforcement, such as the sheriff or police, asking that local law enforcement keep a person in custody for an additional 48 business hours—if a person is detained over the weekend or holiday, they could be held for four or five days. While the detainer is in place, ICE may take custody of the individual and place them in immigration detention.

The decision to issue a “detainer” is up to ICE, not local law enforcement. ICE should only issue a detainer where they have “probable cause” (that is to say, a good reason) to believe that the arrestee is deportable/removable. Police should not detain you unless they have a good reason to think you have broken the law.

## **When does ICE decide to issue a detainer?**

When a person is arrested and fingerprinted at a police station, ICE automatically receives that person's fingerprints under a federal program called "Secure Communities." If an individual's fingerprints match those of a non U.S. citizen (including legal permanent residents), ICE may decide to issue a detainer. ICE may also decide to issue a detainer if the person has an ongoing immigration court case, or if the person has an existing order of removal. Sometimes, local law enforcement will decide to contact ICE on its own to ask whether a foreign-born person has any immigration status.

## **If I am a victim of or witness of a crime, does SF 481 allow the police to ask about my immigration status?**

No, SF 481 forbids the police from asking about the immigration status of someone who is a victim or witness of a crime. If you have been a victim or witness to a crime, reporting the crime to the police may help your immigration case. If you have been the victim or witness of a crime and are thinking about reporting a crime to the police, but have questions about possible consequences, you should consult with an immigration attorney.

## **Does SF 481 allow the police to discriminate based on race, skin color, language or national origin?**

SF 481 forbids the police from discriminating against people on the basis of race, skin color, language or national origin, consistent with both the US Constitution and the Iowa Constitution. It is not clear how this doctrine applies in the context of immigration law and we may not know until this issue is resolved in the courts.

## **Does SF 481 mean that the police are going to ask me about my immigration status? Do I have to tell them about my immigration status?**

SF 481 does not require law enforcement officers to ask about your immigration status. Rather, it forbids blanket department policies that say officers are never allowed to ask about immigration status or cooperate with ICE. An officer may decide in each case whether to ask about immigration status or not. Some officers may decide, on a case-by-case basis, whether or not to ask about immigration status.

If you are unsure what to say when approached by police or immigration, it is important that you know how to exercise your constitutional rights. Under the U.S. Constitution, all people have the right to remain silent. If you do not wish to discuss your immigration status with police or immigration officials, you should say **"I want to remain silent."** If you want to speak with a lawyer before answering questions, you should tell the officer, **"I want to speak with a lawyer."**

## **If I am stopped by police, are the police going to call ICE?**

SF 481 does not require law enforcement officers to inform ICE about an individual, or about that individual's immigration status. Rather, it forbids blanket department policies that say officers are never allowed to share immigration status or cooperate with ICE. Again, officers may decide on a case-by-case basis whether or not they may contact ICE regarding a particular individual.

However, if you are arrested and police take your fingerprints, these fingerprints will be shared with ICE as part of a mandatory program called "Secure Communities."

## **Is SF 481 effective immediately? When does SF 481 take effect?**

SF 481 is not effective immediately. The law will take effect on July 1, 2018, unless there is a court order (injunction) stopping it.