

## STATE AND LOCAL LAW ENFORCEMENT DELEGATION OF IMMIGRATION AUTHORITY UNDER SECTION 287(g) OF THE IMMIGRATION AND NATIONALITY ACT

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added Section 287(g) to the Immigration and Nationality Act (INA), codified in [8 U.S.C. §1357\(g\)](#), which permits the delegation of certain immigration enforcement functions to state and local law enforcement agencies.

Recently, [Montgomery County Texas Sherriff Rand Henderson](#) discussed the 287(g) program with [Citizens Defending Freedom](#) and the importance of a secure border to national sovereignty, the rule of law, and the prevention of criminal activity associated with a lack of border security and enforcement.

This fact sheet provides additional key details on the program to assist and educate county citizens on the immigration enforcement program. For county citizens who reside in an area that does not participate in the 287(g) program, they should query their local law enforcement agencies.

### INTENT OF THE 287(g) PROGRAM

In a bi-partisan effort, Congress created the program to provide authority to local law enforcement to enter into memorandums of agreement (MOA) with federal immigration authorities under the executive branch to assist with the identification and processing of removable aliens arrested for violations of criminal law.

The 287(g) program serves as a deterrent to criminal illegal aliens because if they are arrested by local or state officials, the program provides access to federal immigration databases. The officials can then hold the illegal aliens for deportation and produce court appearance documents for deportation proceedings.

The 287(g) program provides ICE training to participating local and state law enforcement agencies to assist in identifying victims of human trafficking.

The 287(g) program participants create a force multiplier by utilizing local and state law enforcement agencies to increase ICE's ability to identify and process removable illegal aliens.

### ICE Enforcement and Removal Operations operates two 287(g) models:<sup>1</sup>

- (1) The **Jail Enforcement Model (JEM)** is designed to identify and process removable noncitizens — with criminal or pending criminal charges — who are arrested by state or local law enforcement agencies. The JEM provides authority for state and local law enforcement officers to perform specific immigration enforcement functions, as outlined in their MOA.

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<sup>1</sup> Available at <https://www.ice.gov/identify-and-arrest/287g> (last accessed December 21, 2023)

- (2) The **Warrant Service Officer (WSO)** program allows ICE to train, certify and authorize state and local law enforcement officers to serve and execute administrative warrants on noncitizens in their agency's jail. WSOs are limited to executing administrative warrants for civil immigration violations to designated noncitizens incarcerated in their law enforcement facility who have already been identified by ICE as being removable.

## **STATE AND LOCAL LAW ENFORCEMENT AGENCY PARTICIPATION IN THE 287(g) PROGRAM**

As of June 2023, ICE has 287(g) JEM agreements with 62 law enforcement agencies in 18 states. ICE also has 287(g) WSO with 75 law enforcement agencies in 11 states. A listing of all current state and local law enforcement MOAs are listed on the ICE website.<sup>2</sup>

After a 287(g) MOA expires with a state or local law enforcement agency, DHS is not required to renew the agreement. Once a 287(g) agreement is entered into, it may be terminated at any time by either party.

## **CURRENT STATUS OF THE 287(g) PROGRAM**

President Joe Biden stated that efforts “to deputize state and local law enforcement” to perform the functions of ICE agents “undermine trust and cooperation between local law enforcement and the communities they are charged to protect.” He vowed to “end all the agreements entered into by the Trump Administration, and aggressively limit the use of 287(g) and similar programs that force local law enforcement to take on the role of immigration enforcement” and “will aggressively limit the use of 287(g) for local law enforcement to take on the role of immigration enforcement and terminate any agreements made under President Trump.”

In February 2023, Congressman Michael Cloud (TX-27) reintroduced the 287(g) Program Protection Act to improve the 287 (g) program by requiring ICE to approve any submitted partnership application by local and state law enforcement agencies to increase the detention and deportation of criminal illegal immigrants.<sup>3</sup> During the 118<sup>th</sup> Congress, the bill has not moved in the House Judiciary Committee.

In Florida, Governor Ron DeSantis signed SB 1808 in June 2022 which requires any law enforcement agency operating a county detention facility to enter into a MOA with U.S. Immigration and Customs Enforcement (ICE) to participate in the 287(g) program.

On February 21, 2023, the Department of Homeland Security Fiscal Year 2022 Report to Congress made clear that no new 287(g) Program agreements were entered into in FY 2022, and there are currently no plans to expand the program.

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<sup>2</sup> Available at <https://www.ice.gov/identify-and-arrest/287g> (last accessed December 21, 2023)

<sup>3</sup> Available at <https://cloud.house.gov/posts/cloud-reintroduces-the-287g-program-protection-act> (last accessed December 21, 2023)