

1 SENATE BILL NO. 381

2 INTRODUCED BY SHOCKLEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO NEGOTIATE AN
5 AGREEMENT WITH THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY PROVIDING FOR THE
6 VOLUNTARY DESIGNATION AND TRAINING OF STATE AND LOCAL PEACE OFFICERS OR OTHER
7 EMPLOYEES TO ACT AS UNITED STATES IMMIGRATION OFFICERS TO ASSIST IN THE ENFORCEMENT
8 OF FEDERAL IMMIGRATION LAWS; AND AMENDING SECTION 44-1-1001, MCA."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 44-1-1001, MCA, is amended to read:

13 **"44-1-1001. Offenses for which patrol officers may make arrests.** (1) The highway patrol chief and
14 all patrol officers may make arrests for the offenses listed in subsection (2) under the following circumstances:

15 (a) the offense is committed in the presence of the chief or any patrol officer;

16 (b) the offense is committed in a rural district and a request for assistance is made by a peace officer;

17 or

18 (c) the offense is committed in a city or town with a population of less than 2,500 and a request for
19 assistance is made by a peace officer or the mayor of the city or town.

20 (2) Offenses for which arrests may be made under subsection (1) are:

21 (a) deliberate homicide;

22 (b) assault with a deadly weapon;

23 (c) arson;

24 (d) criminal mischief;

25 (e) burglary;

26 (f) theft;

27 (g) kidnapping;

28 (h) possession of dangerous drugs;

29 (i) offenses involving federal immigration law, to the extent that officers are designated and trained in
30 accordance with a memorandum of understanding entered into pursuant to [section 2];

1 ~~(j)~~(i) possession of drug paraphernalia; or
2 ~~(j)~~(k) violation of the Dyer Act regarding the transportation of stolen automobiles."
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4 NEW SECTION. **Section 2. Attorney general to make agreement for enforcement of alienage laws**

5 -- **definitions.** (1) The attorney general or the attorney general's designee shall negotiate the terms of a
6 memorandum of understanding between this state and the United States department of homeland security or its
7 successor agency. The agreement must provide for the voluntary designation and training of appropriate peace
8 officers or other employees of the state or a political subdivision as determined by the state agency or political
9 subdivision employing the officer or employee, including appropriate employees of the Montana highway patrol
10 as provided in 44-1-1001. The designated and trained officer or employee may perform the functions of a United
11 States immigration officer for the purposes of the investigation, apprehension, or detention of persons who may
12 be illegal aliens in the United States, including the transportation of those aliens across state lines for transfer
13 into federal custody.

14 (2) The agreement required by this section must provide that an officer or employee performing the
15 functions of a United States immigration officer must have the knowledge and training to adhere to federal law
16 relating to those functions.

17 (3) A memorandum of understanding negotiated pursuant to this section must comply with 8 U.S.C.
18 1357(g), regulating the content and operation of those memorandums of understanding, and must be signed on
19 behalf of this state by the attorney general and the governor.

20 (4) This section does not require a memorandum of understanding pursuant to this section in order for
21 an officer or employee of this state or a political subdivision of this state to communicate with the federal
22 government regarding the immigration status of any individual or to otherwise cooperate with those government
23 entities or with the federal government in the identification, apprehension, detention, or removal of illegal aliens.

24 (5) A peace officer or other employee designated to perform the functions of a United States immigration
25 officer in accordance with a memorandum of understanding executed pursuant to this section is subject to
26 44-2-117.

27 (6) As used in this section, the following definitions apply:

28 (a) "Illegal alien" means a person who the United States government has determined is not lawfully
29 present in the United States.

30 (b) "Peace officer" has the meaning provided in 46-1-202.

1 (c) "Political subdivision" means a city of any class, a county, a consolidated local government, or a town.

2 (d) "State agency" means a board, commission, office, bureau, division, or department of this state.

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4 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
5 integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [section 2].

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