

# Sanctuary Promise Act

## OVERVIEW

Oregon's sanctuary law, ORS 181A.820, is the nation's oldest and has been part of our state's identity for more than 30 years. In 2018, a resounding majority of Oregonians voted to preserve the law and reject Ballot Measure 105, which would have repealed ORS 181A.820.

However, the promise of sanctuary remains unfulfilled. Despite continued and clear public policy decisions that reaffirm our sanctuary status and seek to keep Oregon institutions separate from the federal immigrant detention and deportation regime, state and local government agencies across Oregon routinely share information, cooperate and collaborate with Immigration and Customs Enforcement agents to target and arrest Oregonians.

The Sanctuary Promise Act fills the gap between the protection that Oregonians want and believe our laws to provide, and our current reality.

## GOALS

### 1. Strengthening Oregon's Sanctuary

#### A. General Prohibitions

Public records obtained by ACLU through FOIA back up what community members have been saying for years: police, sheriffs, jails, district attorneys, probation officers and others routinely collaborate with ICE officers to help them identify, locate, and detain community members.

Our proposal for strengthening the sanctuary statute has been workshopped by stakeholders from immigrant-led and immigrant-serving organizations. It seeks to draw a bright line between state and local systems and the federal immigration detention and deportation regime by clearly prohibiting all levels of collaboration and cooperation with ICE.

#### References:

- [Keep Washington Working Act](#)

- [California Values Act](#)
- [California Truth Act - jail interview provision](#)

### *B. Addressing Racial Profiling in Oregon jails*

ICE is currently exploiting the handling of sensitive information in jails to target Oregonians in our criminal legal system, interrupting those proceedings and undercutting the courts. Currently, nearly all jails ask for and record the country of birth for every person booked into custody. This is to inform individuals of their right to contact their consulate if they report a foreign country of birth. However, due to ICE's insistence and varying levels of understanding of Oregon's sanctuary laws (see above), that information is routinely shared with ICE, sometimes in daily automated reports that list all individuals in a particular jail with a foreign country of birth. This section would change the way this information is gathered, if at all, to protect it from being disclosed to federal immigration authorities for the purpose of immigration enforcement

Washington State already prohibits the gathering of this information by state statute, as do various other jurisdictions around the country. We understand that at least one sheriff in Oregon has already implemented a policy under which the country of birth question is not asked.

### References:

2. [Keep Washington Working Working, Sec. 6](#) provisions [codified at RCW § 10.93.160](#) prohibit any state law enforcement, including jail staff, from asking about country of birth status.
3. [Bernalillo, NM, Policy](#), which prohibits law enforcement from inquiring into, and disclosing, an individual's country of birth, unless required by law.

## **4. Creating a Private Right of Action**

The section will create a private right of action that would allow individuals to seek redress in the courts if officials violate Oregon's sanctuary laws.

This is critical for multiple reasons. First and foremost, sanctuary in name only, with no mechanism for accountability, does not provide meaningful security for the community. Second, it's important that courts have the opportunity to construe state statutes and can only do so if people can access the courts to bring it to their attention.

Oregon has had ORS 181A.820 for more than 30 years, but Oregon courts have issued only a handful of opinions referencing the statute. This is due, in large part, to a ruling by the Oregon

Court of Appeals that statute does not have a private right of action (authorization to bring a lawsuit). As a result, law enforcement agencies, city and county counsel, and other local policy makers across the state interpret it to mean very different things. And even where it seems clear that an agency or official is in violation of Oregon’s sanctuary law, private individuals face significant hurdles in holding them accountable.

References:

- [Miguel Cabrera Cruz v. Multnomah County](#) opinion, holding that ORS 181A.820 does not create a private right of action.

## 5. Prohibiting Public and Private ICE Detention Contracts

There is no reason that Oregon can’t be a state free of immigrant detention. In fact, community led organizing across the state has successfully led to the termination of all known ICE contracts at local jails—most recently terminating the ICE detention contract at the NORCOR jail in The Dalles, Oregon. This section would prohibit both private and public contracting for the purpose of detaining individuals for immigration purposes.

*Private detention contracts:* We have already made the policy decision that incarceration for profit in the criminal setting is abhorrent and prohibited. It is past time to extend that prohibition to include immigration detention.

*Public detention contracts:* With the termination of NORCOR’s ICE contract, there are no remaining ICE detention contracts in the state that we are aware of. Each and every contract has been shut down as communities have risen up to demand their end. It is utterly at odds with our identity as an inclusive sanctuary state to allow public agencies to incarcerate individuals for alleged immigration violations.

References:

- [CA AB32](#), passed in 2019, can be a model, as it prohibits both public and private immigration detention contracts.
- [Keep Washington Working Act, Sec. 6 § \(12\)](#) codified at [RCW 10.93.160 § \(12\)](#), prohibits any state agency, local government, or law enforcement officer from entering into an immigration detention agreement.
- [New Jersey Bill A 5207 - introduced](#), which would prohibit new detention centers and renewing any existing detention contracts.

## 6. Prohibiting Warrantless Arrests at Oregon's Courthouses

Uniform Trial Court Rule (UTCRC) 3.190 prohibits warrantless civil arrests in and around Oregon's state courthouses. The legislature must codify that rule and extend those protections to cover individuals who are in transit to and from the court.

By issuing UTCRC 3.190, Oregon's Judicial Branch made the clear policy choice that the targeting of Oregonians as they engage with our state court system undermines community safety and access to justice. Chief Justice Walters adopted the rule in 2019 after an incredibly broad showing of support that included hundreds of community letters and comments, a nearly unanimous vote at the UTCRC committee, and a letter signed by more than 750 Oregon attorneys asking the Chief Justice to approve the rule.

Washington and New York have already passed similar statutes codifying this protection, and court systems around the country have passed various rules providing similar protections. The protections in other jurisdictions include prohibiting these warrantless arrests while individuals are in transit to and from the court.

### References:

- [Chief Justice Order 19-095](#) (adopting UTCRC 3.190).
- [Washington SHB 2567 \(enacted\)](#) and [final bill report](#), is based on Oregon's rule, but extends the protection against warrantless arrest to include not only individuals who are on the state court grounds, but also those who are "going to" or "returning from" court.
- [New York's Protect Our Courts Act \(enacted\)](#), which similarly protects individuals who are "going to, remaining at, and returning from" state courthouses from immigration arrest.