

# Police leery of new immigration law

## Some chiefs say they lack guidance on enforcing it

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A new law passed by Republican lawmakers and signed by Gov. Kim Reynolds criminalizes “illegal reentry” into the state, tasking Iowa officers with arresting undocumented immigrants who have previously been deported.



But police chiefs across the state say they lack both guidance from the state and the resources and training to take on responsibilities normally held by federal officers.

And they expressed clear misgivings about whether they would be able to enforce the law.

“We weren’t consulted on it,” said Greg Stallman, the legislative chair for the Iowa Police Chiefs Association and chief in Altoona. “So we’re unaware of what the intent of this legislation is, or what they’re trying to get accomplished.”

Senate File 2340 has been touted by Reynolds as a response to the Biden administration on immigration, granting Iowa officers the power to “enforce immigration laws already on the books.”

It creates the new state crime of “illegal reentry,” applied to anyone who has previously been deported, removed or denied admission to the United States.

In most cases, the offense is an aggravated misdemeanor, which carries a two-year prison sentence. In certain circumstances, it can rise to a class D felony, punishable by up to five years in prison. If the person had been previously arrested for another felony, it can become a class C felony, with up to 10 years of prison time. The law takes effect July 1.

As she defended the law in comments to reporters Wednesday, the governor said law enforcement had been briefed before it was signed.

“Well make no mistake, we talked to them,” Reynolds said. “We talked to them before we implemented it.”

She pledged to continue communicating with police about the measure and, if necessary, provide additional guidance.

“Of course we’ll continue to work with them,” Reynolds said. “And if we need additional legislation or if we need to provide rulemaking authority or whatever we need to do, we’ll work with (Public Safety) Commissioner (Stephan) Bayens and we’ll make sure that information gets out to law enforcement.

“But at least it begins to give them a tool to address,” she added, “and it just, it sends a message.”

On Thursday, the U.S. Department of Justice wrote to Reynolds and Attorney General Brenna Bird that the department would sue to block the law if it was still being enforced on May 7.

Questions abound as local law enforcement waits for guidance

Multiple current and former police chiefs who spoke to the Des Moines Register said the responsibilities laid out for officers in the law were beyond both their resources and their management capabilities.

Des Moines Police Chief Dana Wingert said in a statement that when a person is arrested, their immigration status is checked during booking at Polk County Jail. But confirming a person’s immigration status short of that falls to U.S. Immigration and Customs Enforcement — a federal agency. Local police lack access to such a database.

“I’m not interested, nor are we equipped, funded or staffed to take on additional responsibilities that historically have never been a function of local law enforcement,” Wingert said. Confusion persists, too, about the process after a person is brought to court and convicted. The law requires a judge to issue an order “requiring the person to return to the foreign nation” from which they entered.

That order must specify how to transport that person to a legal port of entry, as well as the officer or state agency “responsible for monitoring compliance.”

Paul Allen, county attorney for Buena Vista County in northwest Iowa, said that needs more clarity.

“That’s not really on a prosecutor’s office, but that isn’t fleshed out in the statutes,” Allen said. “I don’t know if they’re planning administrative rules or something like that, but I’m not sure how that would work.”

A former Iowa public safety director said the law, even if properly enforced, would place a further administrative burden on departments that are already stretched thin.

“You’ve created a law in a negligent fashion that’s full of fearmongering to our immigrant community, with no process on how it’s going to work,” said Mark Prosser, who now serves as a Catholic deacon and is on the national Law Enforcement Immigration Task Force.

“Our chiefs and sheriffs, they’ll come out and they’ll have to determine if they even have the staff to do it,” Prosser added. “And in most cases, they don’t, because they’re struggling to maintain staffing for their current levels of calls for service.”

Is guidance on the ‘illegal reentry’ law coming from state officials?

State officials are still examining the law but have not issued guidelines on enforcement or prosecution.

A spokesperson for the Iowa Department of Public Safety said in a statement that “to the extent other law enforcement agencies may seek our input, we provide it but generally do not issue statewide guidance to all law enforcement agencies.”

DPS is “still working through the language of SF 2340 and the ways it can be enforced,” according to the statement, and preliminary enforcement “will likely turn on cooperation from U.S. Immigration and Customs Enforcement” and its database of those deported or removed from the country.

Bird’s office has also not issued guidance on prosecutions under the law to county attorneys, a spokesperson confirmed.

The chief of staff for Polk County Attorney Kimberly Graham said in an email that their office will “judge each case referred to us on its individual merits,” and that Graham had discussed the legislation with police chiefs.

Law is ‘already having negative impact’ on community relations, police say

One of the top concerns stemming from the law, chiefs said, was how it could affect departments’ relationships with immigrant communities.

“I’ll tell you what’s going to lead an officer to ask questions — it’s going to be unintentional, or maybe in some cases intentional profiling,” said Prosser, who also served as police chief in Storm Lake. “They’re going to ask that question to individuals of color, or who speak a different language.”

“And it’s going to take our officers and our law enforcement professionals into a slippery slope,” Prosser added.

Marshalltown Chief of Police Michael Tupper said he was “already seeing some negative impact” in his city, which is 33.6% Hispanic or Latino and home to many who work at the JBS meatpacking plant.

“I think our community’s worried about profiling,” Tupper said. “We don’t want people to be afraid to call the police.”

He added that the law would also give more ammunition to criminals who point to the law to evade law enforcement.

“They will tell people, ‘You can’t call the police,’” Tupper said. “We already see that now. We already see criminals telling people, ‘If you call the police, you’re going to be deported.’”

Law could be taken to court as soon as this week

Like the Texas law it’s modeled after, Iowa’s law is poised to be fought in court.

A top DOJ official warned Reynolds and Bird in a letter last week that if the law remains in effect by May 7, the department will take action.

“The only reason we had to pass this law is because the Biden administration refuses to enforce the laws already on the books,” Reynolds said in response to the letter. “I have a duty to protect the citizens of Iowa. Unlike the federal government, we will respect the rule of law and enforce it.”

Bird said that “Iowa will not back down and stand by as our state’s safety hangs in the balance. If Biden refuses to stop the border invasion and keep our communities safe, Iowa will do the job for him.”

Texas’ law, which the DOJ also took to court, is currently blocked while the lawsuit is decided. Iowa’s law has been strongly opposed by advocacy groups, including Iowa Migrant Movement for Justice, which called it a “ridiculous stunt” to “perpetuate partisan campaign rhetoric.” Protests were organized around the state last week in response to the law.

The ACLU of Iowa declined comment but referred the Register to its statement from April 10 calling the law “one of the most extreme, discriminatory and unconstitutional anti-immigrant bills in the country.”

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