

2017 Regular Session

HOUSE BILL NO. 525

BY REPRESENTATIVE SEABAUGH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIABILITY/CIVIL: Provides for liability for violation of certain federal detainer orders under certain circumstances

1 AN ACT

2 To enact R.S. 9:2800.25, relative to liability for the violation of certain federal detainer  
3 orders; to provide for legislative findings; to establish certain obligations; to provide  
4 a cause of action under certain circumstances; to provide for solidary liability; to  
5 provide for prescription; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2800.25 is hereby enacted to read as follows:

8 §2800.25. Action for violation of detainer order

9 A. The legislature hereby finds and declares that:

10 (1) Law enforcement work is of great importance to the health, safety, and  
11 welfare of the people of this state.

12 (2) Law enforcement officers' efforts to protect their communities, conduct  
13 investigations, and quickly apprehend offenders should receive the full support of all  
14 levels of state and federal government which is imperative for the general  
15 effectiveness of the criminal justice system.

16 (3) The improvement of public safety and sound law enforcement and  
17 administration of criminal justice requires the complete and timely collection,  
18 processing, and dissemination of available information on crime and offenders of all  
19 state and federal laws.

1           (4) It is in the public interest that, to the greatest extent possible, government  
2           agencies at all levels concerned with the detection, apprehension, and prosecution  
3           of criminal offenders share among themselves available information relating to such  
4           offenders.

5           (5) It is the policy of this state to assist federal, state, and local criminal  
6           justice and law enforcement agencies in the identification and detection of  
7           individuals in criminal investigations.

8           (6) The state has a compelling interest in and an obligation to ensure  
9           compliance with the provisions of local, state, and federal law to help safeguard the  
10          health, safety, and welfare of the people of this state.

11          (7) It is therefore in the best interest of the state to establish a means for the  
12          citizens of this state to recover for damages caused by any law enforcement agency  
13          which refuses to cooperate with any other state or federal agency charged with the  
14          enforcement of state or federal laws designed for the apprehension of persons who  
15          have illegally entered this state or country, who have been taken into custody and  
16          released in an intentional violation of a Department of Homeland Security Form I-  
17          247 immigration detainer order, and who have subsequently caused injury or death  
18          to a person which would be actionable under Civil Code Article 2315 et seq. or other  
19          applicable law.

20          B. Notwithstanding any other law to the contrary indemnifying or limiting  
21          the liability of a governmental agency, including R.S. 9:2798.1, R.S. 13:5106, and  
22          R.S. 42:1441, a state or local law enforcement agency shall be deemed to have  
23          breached its obligation to protect the health, safety, and welfare of the people of this  
24          state and shall be liable for the damages incurred when the law enforcement agency  
25          releases a person from custody in an intentional violation of a Department of  
26          Homeland Security Form I-247 immigration detainer order, and the person who is  
27          released from custody in violation of the detainer order subsequently causes injury  
28          or death to another person which would be actionable under Civil Code Article 2315  
29          et seq. or other applicable law.

1           C. A state or local law enforcement agency found to be liable under the  
 2           provisions of this Section shall be solidarily liable with the person who was released  
 3           in violation of the Department of Homeland Security Form I-247 immigration  
 4           detainer order and who caused the injury to or death of the other person.

5           D. Any action filed pursuant to the provisions of this Section shall be subject  
 6           to a prescriptive period of one year, commencing on the date the detainee is released  
 7           by the law enforcement agency in violation of the Department of Homeland Security  
 8           Form I-247 immigration detainer order.

### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 525 Reengrossed

2017 Regular Session

Seabaugh

**Abstract:** Provides a cause of action against a law enforcement agency in cases where the law enforcement agency intentionally violates a Department of Homeland Security Form I-247 immigration detainer order, and the person who is released from custody in violation of the detainer order subsequently causes injury or death to another person.

Proposed law provides for legislative findings regarding the importance of the protection of the health, safety, and welfare of the people of this state by law enforcement agencies, and provides for legislative findings regarding the state's compelling interest in and an obligation to ensure compliance with the provisions of local, state, and federal law to help safeguard the health, safety, and welfare of the people of this state.

Proposed law provides that, notwithstanding certain other provisions of present law to the contrary, a state or local law enforcement agency shall be deemed to have breached its obligation and shall be liable for the damages incurred when the law enforcement agency releases a person from custody in an intentional violation of a Department of Homeland Security Form I-247 immigration detainer order, and the person who is released from custody in violation of the detainer order subsequently causes injury or death to another person.

Proposed law provides for solidary liability of the state or local law enforcement agency and the person who was released in an intentional violation of the immigration detainer order who caused the injury to or death of the other person.

Proposed law provides a one-year prescriptive period commencing on the date of release of the detainee.

(Adds R.S. 9:2800.25)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Add provisions specifying that the violation of the detainer order be intentional.

The House Floor Amendments to the engrossed bill:

1. Add technical amendments.
2. Add one-year prescriptive period.