

**Humboldt County Sanctuary Ordinance (Measure K)
Humboldt County Code Title IX, Division 12**

The Humboldt County Sanctuary Ordinance will become effective on December 21, 2018. Each County employee should be instructed to read the Humboldt County Sanctuary Ordinance in full. The Ordinance requires Department heads to instruct their employees in writing regarding the particular implications of the Ordinance on the Department, see below, as this text can be used to provide specific instruction to your department. The Office of County Counsel is available to assist. The Ordinance also requires that the Clerk of the Board distribute the Ordinance to a variety of people, listed below. Finally, the Sheriff's Office and the Juvenile Probation Officer have requirements for periodic reports to the Board of Supervisors. The affirmative obligations of Ordinance are consolidated below for ease of reference.

- The Ordinance becomes effective December 21, 2018.
- 9121-5. Use of County Funds Prohibited:
“No department, agency, commission, officer, or employee of the County of Humboldt shall use any County funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information, in the County of Humboldt unless such assistance is required by Federal or State statute, regulation, or court order or decision. The prohibition set forth in this chapter shall include, but shall not be limited to:
 - (a) Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the Federal agency charged with enforcement of the Federal immigration law and relating to alleged violations of the civil provisions of the Federal immigration law, except as permitted herein.
 - (b) Assisting or cooperating, in one's official capacity, with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of County, State or Federal criminal laws.
 - (c) Requesting information about, or disseminating information, in one's official capacity, regarding the release status of any individual or any other such personal information, except as permitted herein, or conditioning the provision of services or benefits by the County of Humboldt upon immigration status, except as required by Federal or State statute or regulation, County public assistance criteria, or court order or decision.
 - (d) Including on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by County of Humboldt any question regarding immigration status other than those required by Federal or State statute, regulation, or court order or decision. Any such questions existing or

being used by the County at the time this Chapter is adopted shall be deleted within sixty days of the adoption of this Chapter.

- Section 9121-6 contains specific restrictions for law enforcement officials. HCSO employees should pay particular attention to this section. The Sheriff's Office has updated policies and procedures pursuant to this section.

- 9121-7. Restrictions on All County Agencies.
 - “(a) Except as stated herein, no county employee shall inquire or investigate into a person's immigration status.
 - (b) No county employee shall take any action based on a person's immigration status unless required by federal law, state law, or court order or decision.
 - (c) No county employee shall cooperate with any federal authority with respect to any investigation of a person's immigration status unless required by federal law, state law, or court order or decision.
 - (d) No county employee shall assist with any investigation into a person's immigration status or to assist with the enforcement of federal immigration law unless required by federal law, state law, or court order or decision.
 - (e) No county employee shall assist, directly or indirectly, in the detention of any person solely based on a person's suspected immigration status unless required by federal law, state law, or court order or decision.”

- Section 9121-8. Welfare of Children of Deported Parents. “It shall be the policy of all agencies acting under County jurisdiction that in the absence of evidence of abuse, neglect, or other physical or emotional danger to the child due to parental conduct the policy shall be to assist the families according to the wishes of the parents as federal and state law allow and to the extent resources are available. Guardians appointed by parents through formal process or power of attorney shall be recognized and respected, and guardianship as intended by the parents shall not be opposed on the basis of residential or citizenship status.
In the event that an agency shall make the determination that appointed guardianship and/or parental reunification is not in the best interests of the child, the determination shall be made in writing which shall be mailed to the parents and appointed guardians if an address can be ascertained, and that such written determination shall be mailed at least 15 days prior to any legal action unless the agency determines that the child is in immediate danger.”

- Section 9121-9 lists the permitted activities of all agencies.
 - a) Any County employee from discussing a person's immigration status as part of a service request from the person;
 - b) Any County employee from obeying any lawful order issued with all of the protections of the United States Constitution, including but not limited to a probable cause and due process;

- c) Any County employee from taking any action to protect a person or respond to an emergency; or
 - d) Any County police officer from investigating or assisting with any investigation of criminal activity other than violation of the immigration laws.
- 9121-10: requires a submission of a semiannual report by the Sheriff and Juvenile Probation Officer to the Board of Supervisors. Please consult that section for details of the report.
 - **9121-12. Transmission of Copies of this Chapter to Employees/Informing County Employees:**
 - **“The Clerk of the Board of Supervisors shall send copies of this Chapter, including any future amendments thereto that may be made, to every department, agency and commission of the County of Humboldt, to California’s United States Senators, and to the California Congressional delegation, the Commissioner of the Federal agency charged with enforcement of the Federal immigration law, the United States Attorney General, and the Secretary of State and the President of the United States.**

Each appointing officer of the County of Humboldt shall inform all employees under her or his jurisdiction of the prohibitions in this ordinance, the duty of all of her or his employees to comply with the probations in this ordinance, and that employees who fail to comply with the prohibitions of this ordinance shall be subject to appropriate disciplinary action. Each County employee shall be given a written directive with instructions for implementing the provisions of this Chapter.”

- 9121-13. Enforcement.
 - “The Human Rights Commission shall review the compliance of the County departments, agencies, commissions and employees with the mandates of this ordinance in particular instances in which there is question of noncompliance or when a complaint alleging noncompliance has been lodged. The Commission will inform the agency being complained of and shall allow for comments and materials from all parties named in the complaint. A written report with the Commission’s findings shall be submitted to the Board of Supervisors within sixty (60) days after the first meeting following the submission of a complaint.”
- 9121-16. Severability (in part): “[S]hould any provision herein place federal funding for County services at risk due to an act of federal or State of California legislature, a Court order, ruling, or decision, or a standing federal executive order, said provision shall be deemed invalid until such law, order, ruling, or decision remains in effect and so long as it is upheld by the state or federal courts. Should the issue arise, documentation of the

December 14, 2018
Humboldt County Sanctuary Ordinance Memo
Directive with Implementation Assistance

federal or state action or imperative which is brought to the attention of the Board of Supervisors shall be presented to County Counsel for evaluation and recommendation. The office of County Counsel shall immediately contact the authorities or origin or their legal representation for clarification as to which provisions herein place the County in jeopardy of the loss of federal or state funding for any of its programs, and shall request written direction to address the funding risk. The Board of Supervisors shall then receive the documentation and recommendations of County Counsel and act in the best interests of the County balancing the interests addressed by this Chapter with the conflicting interests. Any such decision to nullify or limit this Chapter shall be revoked upon information that the law, order, or ruling has been reversed, overturned, repealed, or otherwise rendered legally moot.”

ORDINANCE NO.

ORDINANCE OF THE PEOPLE OF THE COUNTY OF HUMBOLDT ADDING
CHAPTER 1 OF DIVISION 12 OF TITLE IX OF THE HUMBOLDT
COUNTY CODE ENTITLED HUMBOLDT COUNTY SANCTUARY ORDINANCE

The People of the County of Humboldt do ordain as follows:

SECTION 1. Chapter 1 of Division 12 of Title IX of the Humboldt County Code is added to read:

TITLE IX – PUBLIC PEACE, SAFETY AND WELFARE

DIVISION 12

HUMBOLDT COUNTY SANCTUARY ORDINANCE

Chapter 1 – Humboldt County Sanctuary Ordinance

- § 9121-1. Preamble.
 - § 9121-2. Purpose of this Chapter.
 - § 9121-3. Findings.
 - § 9121-4. Definitions.
 - § 9121-5. Use of County Funds Prohibited.
 - § 9121-6. Restrictions on Law Enforcement Officials.
 - § 9121-7. Restrictions on All County Agencies.
 - § 9121-8. Welfare of Children of Deported Parents.
 - § 9121-9. Permitted Activities of all Agencies.
 - § 9121-10. Semiannual Report.
 - § 9121-11. Undertaking for the General Welfare.
 - § 9121-12. Clerk of the Board to Transmit Copies of this Chapter, Informing County Employees.
 - § 9121-13. Enforcement.
 - § 9121-14. County Undertaking Limited to Promotion of General Welfare.
 - § 9121-15. Construction with Other Laws.
 - § 9121-16. Severability.
-

9121-1. Preamble.

It is hereby affirmed that the County of Humboldt County is a sanctuary in its affirmation and support for SB 54, Statutes 2017, Chapter 495 (An act to amend Sections 7282 and 7282.5 of, and to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of, the Government Code, and to repeal Section 11369 of the Health and Safety Code, relating to law enforcement); and additionally as stated in this Chapter.

9121-2. Purpose of this Chapter.

The purpose of this Chapter is to support Humboldt County's mission of providing competent, effective, and responsive public safety services to the citizens of Humboldt County and visitors to our community, recognizing its responsibility to maintain order, while affording dignity and respect to all persons and maintaining the highest of professional and ethical standards. The provisions of this Chapter are designed to assure that local law enforcement and other agencies are free from improper interference in the conduct of their duties, that County resources are expended only in furtherance of the objectives for which they are allocated, that participation in the investigation and prosecution of criminal matters is in no way discouraged and that all residents of the County may confidently enjoy the benefits and privileges of life in Humboldt County.

Additionally, the intent of this Chapter is to address requests for civil immigration detainers, voluntary notification of release of individuals, transmission of personal information, and civil immigration documents based solely on alleged violations of the civil provisions of immigration laws. Nothing in this Chapter shall be construed to apply to matters other than those relating to federal civil immigration detainers, notification of release of individuals, transmission of personal information, or civil immigration documents, based solely on alleged violations of the civil provisions of immigration laws. In all other respects, local law enforcement agencies may continue to collaborate with federal authorities to protect public safety.

9121-3. Findings.

The following findings are included in this ordinance to guide in interpretation for clarification in the implementation of the policies herein and to guide in the judicial determinations of compliance with it.

The County of Humboldt (the "County") is home to persons of diverse racial, ethnic, and national backgrounds, including a large immigrant population which is hereby recognized as integral and vital to the communities of the County. The County respects, upholds, and values equal protection and equal treatment for all of our residents, regardless of immigration status. Undocumented persons pay taxes and therefore are entitled to access county services, including but not limited to protection by the police and firefighters. Undocumented persons are entitled to access all County facilities, including libraries, recreation centers, parks and senior centers. Undocumented persons may choose not to exercise these rights because of a concern that County officials will cooperate with federal authorities in the investigation of immigration status. It is important that the Board of Supervisors clarify the County's policy regarding inquiries into and actions based on a person's immigration status.

Fostering a relationship of trust, respect, and open communication between County employees and County residents is essential to the County's core mission of ensuring public health, safety, and welfare, and serving the needs of everyone in the community, including immigrants. The purpose of this Chapter is to foster respect and trust between law enforcement, County

agencies and personnel, and residents, to protect limited local resources, to encourage cooperation between residents and County officials, including especially law enforcement and public health officers and employees, and to ensure community security, and due process for all.

The United States Immigration and Customs Enforcement ("ICE") is responsible for enforcing the civil immigration laws. ICE's programs seek to enlist local law enforcement's voluntary cooperation and assistance in its enforcement efforts. In its descriptions ICE has held and continues to hold the position that all requests under their programs are for voluntary action and that any request is not an authorization to detain persons at the expense of the federal government. These policies amount to what many critics have referred to as "unfunded mandates" demanding of local jurisdictions that they not only participate in ICE actions, but dedicate money and resources to such ends. The federal government should not shift the financial burden of federal civil immigration enforcement, including personnel time and costs relating to notification and detention, onto local law enforcement by requesting that local law enforcement agencies continue detaining persons based on non-mandatory civil immigration detainers or cooperating and assisting with requests to notify ICE that a person will be released from local custody. It is not a wise and effective use of valuable County resources.

Given that civil immigration detainers are issued by immigration officers without judicial oversight, and the regulation authorizing civil immigration detainers provides no minimum standard of proof for their issuance, there are serious questions as to their constitutionality. Unlike criminal warrants, which must be supported by probable cause and issued by a neutral magistrate, there are no such requirements for the issuance of a civil immigration detainer. Several federal courts have ruled that because civil immigration detainers and other ICE "Notice of Action" documents are issued without probable cause of criminal conduct, they do not meet the Fourth Amendment requirements for state or local law enforcement officials to arrest and hold an individual in custody. (Miranda-Olivares v. Clackamas Co., No. 3:12-cv-02317-ST *17 (D.Or. April 11, 2014) (finding that detention pursuant to an immigration detainer is a seizure that must comport with the Fourth Amendment).

See also Morales v. Chadbourne, 996 F. Supp. 2d 19, 29 (D.R.I. 2014); Villars v. Kubiowski, No. 12-cv-4586 *10-12 (N.D. Ill. filed May 5, 2014).

According to Section 287.7 of Title 8 of the Code of Federal Regulations, the County is not reimbursed by the federal government for the costs associated with civil immigration detainers alone. The full cost of responding to a civil immigration detainer can include, but is not limited to, extended detention time, the administrative costs of tracking and responding to detainers, and the legal liability for erroneously holding an individual who is not subject to a civil immigration detainer. Compliance with civil immigration detainers and involvement in civil immigration enforcement diverts limited local resources from programs that are beneficial to the County.

The County seeks to protect public safety, which is founded on trust and cooperation of community residents and local law enforcement. However, civil immigration detainers and notifications regarding release undermine community trust of law enforcement by instilling fear in immigrant communities of coming forward to report crimes and cooperate with local law enforcement agencies. A 2013 study by the University of Illinois, entitled "Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement," found that at least 40% of Latinos surveyed are less likely to provide information to police because they fear exposing themselves, family, or friends to a risk of deportation. Indeed, civil immigration detainers have resulted in the transfer of victims of crime, including domestic violence victims, to ICE.

The County has enacted numerous laws and policies to strengthen communities and to build trust between communities and local law enforcement. Local cooperation and assistance with civil immigration enforcement would undermine community policing strategies.

ICE has used and continues to use forms which request notification from local jails about an individual's release date prior to his or her release from local custody. As with civil immigration detainees, these notification requests are issued by immigration officers without judicial oversight, thus raising questions about local law enforcement's liability for constitutional violations if any person is over detained when immigration agents are unable to be present at the time of the person's release from local custody.

ICE will continue to issue civil immigration detainer requests where local law enforcement officials are willing to respond to the requests, and in instances of "special circumstances," a term that has yet to be defined by DHS. Despite federal courts finding civil immigration detainees do not meet Fourth Amendment requirements, local jurisdictions are often unable to confirm whether or not a detention request is supported by probable cause or has been reviewed by a neutral magistrate.

The increase in information-sharing between local law enforcement and immigration officials around the country raises serious concerns about privacy rights. Across the country, including in the California Central Valley, there has been an increase of ICE agents stationed in jails, who often have unrestricted access to jail databases, booking logs, and other documents that contain personal information of all jail inmates.

The County has an interest in ensuring that confidential information collected in the course of carrying out its municipal functions, including but not limited to public health programs and criminal investigations, is not used for unintended purposes that could hamper collection of information vital to those functions. To carry out public health programs, the County must be able to reliably collect confidential information from all residents. To solve crimes and protect the public, local law enforcement depends on the cooperation of all County residents. Information gathering and cooperation may be jeopardized if release of personal information results in a person being taken into immigration custody.

The impact of ICE policies and local cooperation with them is against the interests of the health and safety of every County resident and its many visitors. According to a recent study, seventy percent of undocumented immigrants and forty percent of Latinos are less likely to report crime to the police because they feared that police would enforce immigration laws. (Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, University of Illinois at Chicago, May 2013.) Furthermore, individuals who perpetrate domestic violence, trafficking and other forms of violence against immigrants often instill fear of law enforcement to control their victims. (Leslye Orloff & Olivia Garcia, *Dynamics of Domestic Violence Experienced by Immigrant Victims*, National Immigrant Women's Advocacy Project, 2013). And since undocumented immigrants commonly live in households where at least one member has legal status, U.S. citizens and lawful residents also fear that contacting the police will result in the arrest of a family member.

ICE agents are not police officers. They do not receive the same amount of training and they are not trained in criminal investigations such that local law enforcement is likely to benefit from any joint operations.

According to a report issued by the International Association of Chiefs of Police: State and local law enforcement should not be involved in the enforcement of civil immigration laws since such involvement would likely have a chilling effect on both legal and illegal aliens reporting criminal

activity or assisting police in criminal investigations. ("Enforcing Immigration Law: The Role of State, Tribal and Local Law Enforcement").

In short, cooperation between local agencies and federal immigration enforcement with regard to the latter is detrimental to the health and safety of all residents.

Keeping local law enforcement out of the deportation business not only allows community members to cooperate with local law enforcement, it also benefits the community at large in other ways.

The Immigration Legal Resource Center, through a Freedom of Information Act request, obtained ICE data and contributed to a report on how sanctuary counties perform across a range of social and economic indicators when compared to non-sanctuary counties. Among the main findings:

On average, 35.5% fewer crimes are committed per 10,000 people in sanctuary counties compared to non-sanctuary counties. Median household annual income is, on average, \$4,353 higher in sanctuary counties compared to non-sanctuary counties. The poverty rate is 2.3 percent lower, on average, in sanctuary counties compared to non-sanctuary counties. Unemployment is, on average, 1.1 percent lower in sanctuary counties compared to non-sanctuary counties.

While the results hold true across sanctuary jurisdictions, the sanctuary counties with the smallest populations see the most pronounced effects.

By keeping out of federal immigration enforcement, sanctuary counties are keeping families together—and when households remain intact and individuals can continue contributing, thus strengthening local economies and lowering crime. (Tom K. Wong, Center for American Progress, The Effects of Sanctuary Policies on Crime and the Economy).

Sanctuary laws do not prevent undocumented immigrants from being prosecuted for criminal activity, and state and federal laws address the situation of serious, criminal offenders.

The California Trust Act and SB 54, while prohibiting ICE holds on jail inmates who are otherwise eligible for release, also requires that those charged or convicted with serious and violent felonies be held for ICE agents. Crimes added to the list that expose immigrants to deportation include child abuse, gang-related crimes, drug trafficking, weapon sales, using children to sell drugs and aggravated federal felonies. (California Trust Act, 2014).

Additionally, the same fears herein can deter individuals and families for seeking medical treatment, which can have serious health and safety impacts on everyone residing in the County.

In summary, any County involvement in partnership with ICE through any Joint Law Enforcement Task Force or other arrangement is in contradiction with the values of the County of Humboldt and against its material interests.

9121-4. Definitions.

"Administrative warrant" means a document issued by the federal agency charged with the enforcement of the Federal immigration law that is used as a non-criminal, civil warrant for immigration purposes.

"Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:

- (a) All criminal charges against the individual have been dropped or dismissed.
- (b) The individual has been acquitted of all criminal charges filed against him or her.
- (c) The individual has served all the time required for his or her sentence.
- (d) The individual has posted a bond, or has been released on his or her own recognizance.
- (e) The individual has been referred to pre-trial diversion services.
- (f) The individual is otherwise eligible for release under state or local law.

"Civil Immigration detainer" means a non-mandatory request issued by an authorized federal immigration officer under Section 287.7 of Title 8 of the Code of Federal Regulations, to a local law enforcement official to maintain custody of an individual for a period not to exceed 48 hours and advise the authorized federal immigration officer prior to the release of that individual.

"Law enforcement official" means any County Department or officer or employee of a County Department, authorized to enforce criminal statutes, regulations, or local ordinances; operate jails or maintain custody of individuals in jails; and operate juvenile detention facilities or maintain custody of individuals in juvenile detention facilities.

"Notification request" means a non-mandatory request issued by an authorized federal immigration officer to a local law enforcement official asking for notification to the authorized immigration officer of an individual's release from local custody prior to the release of an individual from local custody. Notification requests may also include informal requests for release information by the Federal agency charged with enforcement of the Federal immigration law.

"Personal information" means any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information.

9121-5. Use of County Funds Prohibited.

No department, agency, commission, officer, or employee of the County of Humboldt shall use any County funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information in the County of Humboldt unless such assistance is required by Federal or State statute, regulation, or court order or decision. The prohibition set forth in this Chapter shall include, but shall not be limited to:

- (a) Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the Federal agency charged with enforcement of the Federal immigration law and relating to alleged violations of the civil provisions of the Federal immigration law, except as permitted herein.
 - (b) Assisting or cooperating, in one's official capacity, with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of County, State, or Federal criminal laws.
 - (c) Requesting information about, or disseminating information, in one's official capacity, regarding the release status of any individual or any other such personal information, except as permitted herein, or conditioning the provision of services or benefits by the County of Humboldt upon immigration status, except as required by Federal or State statute or regulation, County public assistance criteria, or court order or decision.
-

(d) Including on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by County of Humboldt any question regarding immigration status other than those required by Federal or State statute, regulation, or court order or decision. Any such questions existing or being used by the County at the time this Chapter is adopted shall be deleted within sixty days of the adoption of this Chapter.

9121-6. Restrictions on Law Enforcement Officials.

In addition to the limitations set forth by the laws of the State of California, including but not limited to the above-described laws currently described in summary as "SB 54" the following restrictions shall apply.

(a) No enforcement official shall detain an individual on the basis of a civil immigration detainer.

(b) No agency shall participate in a Joint Law Enforcement Task Force which includes ICE, or for which a purpose is enforcement of federal immigration laws.

(c) Law enforcement officials shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, on the basis of an administrative warrant, prior deportation order, or other civil immigration document based solely on alleged violations of the civil provisions of immigration laws.

(d) Where federal law, state law, or court orders or decisions require that law enforcement arrest and detain immigrants for reasons pertaining to their immigration status (as opposed to the committing of violent crimes as defined herein) that the following protocols shall be followed:

1. No arrests shall be made at the arrestee's home from 12:00 a.m. to 8:00 a.m.
2. No arrests shall be made at a courthouse or other government building based upon the timing of a court hearing or appointment with government representative
3. No arrests shall be made near a school and every reasonable precaution shall be made to avoid arrests in the presence of the arrestee's children.
4. No arrests shall be made at hospitals, nursing homes, or other medical facilities.
5. Law enforcement officials shall make good faith efforts to seek federal reimbursement for all costs incurred in continuing to detain an individual, after that individual becomes eligible for release, in response each civil immigration detainer.

(e) In the event that an agency is required to act on a warrant, subpoena, or other order which does not involve an arrest or detention, but which merely requires the sharing of personal information and/or release dates, the individual named in the warrant or subpoena shall be notified in writing immediately upon receipt by the agency.

(f) Except as shall be required for booking upon arrest upon suspicion of criminal activity not pertaining to immigration status, no individual shall be required to submit to a fingerprint check of any sort unless there is an outstanding warrant on the individual. Law enforcement agencies shall be prohibited from random fingerprint checks.

9121-7. Restrictions on All County Agencies.

(a) Except as stated herein, no county employee shall inquire or investigate into a person's immigration status.

(b) No county employee shall take any action based on a person's immigration status unless required by federal law, state law, or court order or decision.

(c) No county employee shall cooperate with any federal authority with respect to any investigation of a person's immigration status unless required by federal law, state law, or court order or decision.

(d) No county employee shall assist with any investigation into a person's immigration status or to assist with the enforcement of federal immigration law unless required by federal law, state law, or court order or decision.

(e) No county employee shall assist, directly or indirectly, in the detention of any person solely based on a person's suspected immigration status unless required by federal law, state law, or court order or decision.

9121-8. Welfare of Children of Deported Parents.

Findings:

According to a study conducted by the Migration Policy Institute approximately 5 million children under 18 have at least one parent who is an undocumented immigrant. Of these children, 79 percent are American citizens. In the second half of 2015, ICE removed 15,422 parents who said they have at least one U.S.-born child, according to ICE data.

Research has shown that separation from parents can generate or exacerbate child mental health problems such as depressive or anxiety disorder and can impact a child's development and education.

There is no uniform national policy with regard to the status of children who are separated from one or both parents due to deportation. In some instances the involved government agencies have assisted families in reunifying. In others children have been placed into Foster care and in some cases agencies have taken legal action to oppose reunification or placement with guardians of the parents' choice. The lack of clear policy guidelines or criteria for specific action (or inaction) has led to inconsistent actions and policies at the discretion of agents charged with securing the best interests of the children.

Policy:

It shall be the policy of all agencies acting under County jurisdiction that in the absence of evidence of abuse, neglect, or other physical or emotional danger to the child due to parental conduct the policy shall be to assist the families according to the wishes of the parents as federal and state law allow and to the extent resources are available. Guardians appointed by parents through formal process or power of attorney shall be recognized and respected, and guardianship as intended by the parents shall not be opposed on the basis of residential or citizenship status.

In the event that an agency shall make the determination that appointed guardianship and/or parental-reunification is not in the best interests of the child, the determination shall be made in writing which shall be mailed to the parents and appointed guardians if an address can be ascertained, and that such written determination shall be mailed at least 15 days prior to any legal action unless the agency determines that the child is in immediate danger.

9121-9. Permitted Activities of All Agencies.

Nothing in this chapter shall prohibit:

- (a) Any County employee from discussing a person's immigration status as part of a service request from that person;
- (b) Any County employee from obeying any lawful order issued with all of the protections of the United States Constitution, including but not limited to probable cause and due process;
- (c) Any County employee from taking any action to protect a person or respond to an emergency; or
- (d) Any County police officer from investigating or assisting with any investigation of criminal activity other than violation of the immigration laws.

9121-10. Semiannual Report.

By no later than July 1, 2019, the Sheriff and Juvenile Probation Officer shall each provide to the Board of Supervisors a written report stating the number of detentions that were solely based on civil immigration detainees (if any) during the first six months following the effective date of this Chapter, and detailing the rationale behind each of those civil immigration detainees. Thereafter, the Sheriff and Juvenile Probation Officer shall each submit a written report to the Board of Supervisors by January 1st and July 1st of each year, addressing the following issues for the time period covered by the report:

- (a) A description of all communications received from the Federal agency charged with enforcement of the Federal immigration law, including but not limited to the number of civil immigration detainees, notification requests, or other types of communications.
- (b) A description of any communications the Department made to the Federal agency charged with enforcement of the Federal immigration law, including but not limited to any Department's responses to inquiries as described herein.

9121-11. Undertaking for the General Welfare.

In enacting and implementing this Chapter the County is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

9121-12. Clerk of the Board to Transmit Copies of this Chapter; Informing County Employees.

The Clerk of the Board of Supervisors shall send copies of this Chapter, including any future amendments thereto that may be made, to every department, agency and commission of the County of Humboldt, to California's United States Senators, and to the California Congressional delegation, the Commissioner of the Federal agency charged with enforcement of the Federal immigration law, the United States Attorney General, and the Secretary of State and the President of the United States. Each appointing officer of the County of Humboldt shall inform all employees under her or his jurisdiction of the prohibitions in this ordinance, the duty of all of

her or his employees to comply with the prohibitions in this ordinance, and that employees who fail to comply with the prohibitions of the ordinance shall be subject to appropriate disciplinary action. Each County employee shall be given a written directive with instructions for implementing the provisions of this Chapter.

9121-13. Enforcement.

The Human Rights Commission shall review the compliance of the County departments, agencies, commissions and employees with the mandates of this ordinance in particular instances in which there is question of noncompliance or when a complaint alleging noncompliance has been lodged. The Commission will inform the agency being complained of and shall allow for comments and materials from all parties named in the complaint. A written report with the Commission's findings shall be submitted to the Board of Supervisors within sixty (60) days after the first meeting following the submission of a complaint.

9121-14. County Undertaking Limited to Promotion of General Welfare.

In undertaking the adoption and enforcement of this Chapter, the County is assuming an undertaking only to promote the general welfare. This Chapter is not intended to create any new rights for breach of which the County is liable in money damages to any person who claims that such breach proximately caused injury. This section shall not be construed to limit or proscribe any other existing rights or remedies possessed by such person.

9121-15. Construction with Other Laws.

Nothing in this ordinance shall be construed to violate 8 USC 1373, the California Trust Act, the provisions stated above in California Statutes of 2017, Chapter 495, currently referenced by bill number SB 54 or any state or federal laws with regard to immigration or other law enforcement. Nothing in this Chapter shall be construed as contrary to or in defiance of any Federal or State Law.

9121-16. Severability.

If any section, subsection, sentence, clause, phrase, or word of this Chapter or its application, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter would be subsequently declared invalid or unconstitutional. To this end, the provisions of this ordinance, and each of them, are severable.

Furthermore, should any provision herein place federal funding for County services at risk due to an act of federal or State of California legislature, a Court order, ruling, or decision, or a standing federal executive order, said provision shall be deemed invalid until such law, order, ruling, or decision remains in effect and so long as it is upheld by the state or federal Courts.

Should the issue arise, documentation of the federal or state action or imperative which is brought to the attention of the Board of Supervisors shall be presented to County Counsel for evaluation and recommendation. The office of County Counsel shall immediately contact the authorities or origin or their legal representation for clarification as to which provisions herein place the County in jeopardy of the loss of federal or state funding for any of its programs, and

shall request written direction to address the funding risk. The Board of Supervisors shall then receive the documentation and recommendations of County Counsel and act in the best interests of the County balancing the interests addressed by this Chapter with the conflicting interests. Any such decision to nullify or limit this Chapter shall be revoked upon information that the law, order, or ruling has been reverse, overturned, repealed, or otherwise rendered legally moot.

This ordinance shall be considered as adopted upon the date the vote is declared by the Board of Supervisors and shall go into effect ten (10) days after that date, all pursuant to Section 9122 of the California Elections Code.

The foregoing ordinance was passed by a vote of the people of Humboldt County, on November 6, 2018, by the following vote:

Yes Votes: 28,139
No Votes: 22,733

The vote on this ordinance was declared by the Board of Supervisors on December 11, 2018.

Ryan Sundberg, Chair
County of Humboldt Board of Supervisors

(SEAL)
ATTEST:
Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California.

By _____
Ryan Sharp, Deputy

County of Humboldt – Humboldt County Sanctuary Ordinance Employee Acknowledgement

I have read and understand the Humboldt County Sanctuary Ordinance, Chapter 1 of Division 12 of Title IX of the Humboldt County Code, and have received a copy. If I have question concerning this ordinance, I can ask these questions of my Department Head and/or designee. A complete copy of the Humboldt County Sanctuary Ordinance is accessible on the Humboldt County website and can be obtained from my department.

Signed: _____

Date: _____

Name: _____

Department: _____

Witness: _____

Date: _____

Name: _____