

**STATE OF NEW MEXICO
SEVENTH JUDICIAL DISTRICT COURT
COUNTY OF TORRANCE**

STATE OF NEW MEXICO EX REL.
RAÚL TORREZ, Attorney General,

Plaintiff,

vs.

No. D-707-CV-2026-_____

BOARD OF COUNTY COMMISSIONERS
FOR TORRANCE COUNTY and
DAVID FRAZEE in his official capacity
as Sheriff for the County of Torrance,

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

The State of New Mexico, by and through Raúl Torrez, Attorney General for the State of New Mexico, brings this action for declaratory and injunctive relief against the Board of County Commissioners for Torrance County (“Board”) and Sheriff David Frazee in his official capacity (together, “Defendants”). This Complaint is brought on behalf of the citizens of New Mexico pursuant to the Attorney General’s authority under NMSA 1978, Section 8-5-2(B) (1975), to enforce, prosecute, and defend all actions when, in his judgment, the interest of the state requires such action and under the Immigrant Safety Act, NMSA 1978, Sections 13-9-5(A) (2026).

INTRODUCTION

Permitting local officials to snub state laws at their whim is a direct assault on state sovereign authority. Willfully ignoring legislative mandates undermines the state’s ability to govern fairly and uniformly and erodes public confidence in government’s ability to maintain order and protect safety. The Attorney General brings this action to protect and uphold the sovereign authority of the state over counties and Sheriff’s offices, enforce newly enacted state law, and

prevent New Mexico's law enforcement agencies from being commandeered by the federal government.

In February 2026, New Mexico's Legislature enacted House Bill 9, codified at Sections 13-9-1 to -6 as the Immigrant Safety Act ("ISA") [attached as Exhibit 1], placing restraints on state and local cooperation with civil immigration enforcement pursuant to the state's sovereign authority. In part, the ISA requires public bodies to terminate any existing agreements to investigate, apprehend, detain, or transport individuals for federal civil immigration violations, including agreements with Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), pursuant to 8 U.S.C. § 1357(g) (Immigration and Nationality Act ("INA")) or 8 C.F.R. § 287.7 (collectively, "287(g) agreement(s)"). § 13-9-4. The ISA took effect on May 20, 2026. *See* N.M. CONST. art. IV, § 23.

Defendants presently have a 287(g) agreement with ICE to arrest or prolong the detention of individuals in Defendants' custody whom ICE suspects of violating federal immigration law. Defendant David Frazee, the Torrance County Sheriff, signed a 287(g) Memorandum of Agreement ("MOA") [attached as Exhibit 2] with ICE on December 11, 2025. Russell Hott, Assistant Director for the Department of Homeland Security, countersigned on March 28, 2026. Through the MOA, ICE delegates to designated Sheriff's personnel the authority to serve and execute arrest warrants for immigration violations and warrants of removal on people in Torrance County Sheriff's Office correctional facilities at the time of their release, in order to facilitate transfer to ICE. MOA, Appendix A. The MOA is thus subject to the ISA and must be terminated.

As of the filing of this action, the MOA remains in effect even though the MOA allows Defendants to cancel without penalty upon 90 days' notice. According to Defendant Sheriff Frazee, ICE has yet to provide any of the training or services promised to Torrance County under the

MOA.¹ However, both federal law and the MOA's terms require that such training be completed before County personnel may engage in the immigration functions described in the MOA. State law does not independently authorize Sheriff's personnel to carry out these functions. Under these circumstances, Torrance County Sheriff's deputies who engage in the immigration activities described in the MOA are acting *ultra vires* and exposing Torrance County to serious and immediate liability. Defendants, however, have publicly vowed to maintain the MOA.

Counties are "instrumentalities acting under the sovereignty of the state," possessing only those powers granted by the state Legislature. *State ex rel. Torrez v. Bd. of Cnty. Comm'rs for Lea Cnty.*, 2025-NMSC-011, ¶ 27, 572 P.3d 837, 848 (cleaned up). The powers of County Sheriff's Offices are similarly prescribed by state law. The Legislature has not granted Counties or Sheriff's Offices the power to pick and choose which state laws to follow and which to ignore. The ISA is clear on its face that its agreement termination requirement applies to Defendants and their 287(g) MOA.

The Attorney General seeks a declaration from the Court that the ISA requires Defendants to take immediate steps to terminate their MOA with ICE. The Attorney General also seeks preliminary and permanent injunctive relief prohibiting Defendants from performing the functions the ISA prohibits.

PARTIES, JURISDICTION, AND VENUE

1. Torrance County (or "County") is a political subdivision of the State of New Mexico, created by NMSA 1978, Section 4-30-1 (1909), and a "public body" pursuant to the definition in the ISA, Section 13-9-2.

¹ Nadav Soroker, *Two New Mexico sheriffs with ICE contracts don't plan to end them despite new law*, SANTA FE NEW MEXICAN (May 19, 2026), https://www.santafenewmexican.com/news/local_news/two-new-mexico-sheriffs-with-ice-contracts-dont-plan-to-end-them-despite-new-law/article_44438184-4857-4106-8235-7c1a4f8e8635.html [<https://perma.cc/4BNM-UD65>].

2. Defendant Board of Commissioners for Torrance County (“Board”) is sued as the representative and governing authority of Torrance County pursuant to NMSA 1978, Section 4-46-1 (1876). Defendant Board is also a “public body” pursuant to the definition in the ISA, NMSA 1978, Section 13-9-2.

3. Defendant Board is responsible for the overall governance, management, and legislative actions of Torrance County, including intergovernmental agreements by or on behalf of the County. *See* NMSA 1978, § 4-38-1 (1876) (“The powers of a county as a body politic and corporate shall be exercised by a board of county commissioners.”); *see generally* NMSA 1978, § 4-38-1 to -42.

4. Defendant Board represents the County and is responsible for the care of County property and managing the County’s interests in all cases where no other provision is made by law. § 4-38-18 (1876).

5. Defendant Sheriff David Frazee is, and at all materials times has been, the Sheriff for Torrance County. Defendant Sheriff Frazee is sued in his official capacity.

6. Defendant Sheriff Frazee falls under the ISA’s definition of a “public body.” § 13-9-2.

7. Defendant Sheriff Frazee is the signatory, on behalf of the Torrance County Sheriff’s Office, of a Memorandum of Agreement with the United States Immigration and Customs Enforcement agency (ICE), pursuant to which ICE delegates certain immigration enforcement authority to select Torrance County Sheriff’s personnel and provides training related to exercise of that authority to these personnel. *See* Ex. 2.

8. Defendant Sheriff Frazee acted on behalf of the Torrance County Sheriff’s Office, Torrance County, and Defendant Board in signing the 287(g) MOA.

9. Attorney General Raúl Torrez brings this action for declaratory and injunctive relief pursuant to NMSA 1978, Section 44-6-13 (1975), to protect the interests of the State and its citizens pursuant to NMSA 1978, Section 8-5-2 (1975), and to enforce the Immigrant Safety Act pursuant to Section 13-9-5(A).

10. The Attorney General has broad civil enforcement authority under Section 8-5-2(B) to initiate actions to promote the law and interests of the State of New Mexico. The Attorney General may “prosecute and defend all actions and proceedings brought by or against any state officer or head of a state department, board or commission, or any employee of the state in his official capacity.” § 8-5-2(C).

11. In the ISA, the New Mexico Legislature expressly granted the Attorney General authority to bring a civil enforcement action if he “has reasonable cause to believe that a violation of [the ISA] has occurred or to prevent a violation of that act from occurring.” § 13-9-5(A).

12. In such an action, this Court may award declaratory and injunctive relief. § 13-9-5(B).

13. Venue is proper in this Court pursuant to NMSA 1978, Section 38-3-2, as Defendants are located in Torrance County.

ALLEGATIONS COMMON TO ALL CLAIMS

I. SECTION 287(g) AGREEMENTS

14. Section 287(g) of the INA, 8 U.S.C. § 1357, authorizes the Attorney General of the United States to enter into written agreements with state and local governments allowing their employees to perform certain “functions of an immigration officer in relation to the investigation, apprehension, or detention” of non-citizens (“287(g) agreements”). *See* 8 U.S.C. §§ 1357(g)(1).

15. Section 287(g) preserves States’ sovereignty and autonomy to cooperate or not cooperate with the federal government. *See Nash v. Mikesell*, 2024 COA 68, ¶ 23, 557 P.3d 369 (Colo. Ct. App. 2024); *City of El Cenizo v. Texas*, 890 F.3d 164, 178 (5th Cir. 2018) (“[The INA] does not require cooperation at all.”).

16. Participation in 287(g) agreements is voluntary: “Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.” 8 U.S.C. § 1357(g)(9).

17. In addition, the INA states that 287(g) agreements may only be carried out “to the extent consistent with State and local law.” *Cnty. of Ocean v. Grewal*, 475 F. Supp. 3d 355, 362 (D.N.J. 2020), *aff’d sub nom. Ocean Cnty. Bd. of Comm’rs v. Att’y Gen. of State of N.J.*, 8 F.4th 176 (3d Cir. 2021) (quoting 8 U.S.C. § 1357(g)(1)).

18. One type of 287(g) agreement is a warrant service officer agreement, which authorizes local law enforcement officers to perform arrests within jails and correctional facilities.

19. Before a local law enforcement officer may perform functions under a 287(g) agreement, they must be trained and certified by ICE regarding “the enforcement of relevant Federal Immigration laws” 8 U.S.C. § 1357(g)(2). Thus, training by ICE personnel is a necessary condition for local law enforcement to perform federal immigration enforcement functions through a 287(g) agreement.

20. When performing functions under a 287(g) agreement, “an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of [DHS].” 8 U.S.C. § 1357(g)(3); 6 U.S.C.A. § 557.²

² Although 8 U.S.C. § 1357(g)(3) references the U.S. “Attorney General,” the Homeland Security Act of 2002 transferred that statutory function to the Secretary of the Department of Homeland Security. *See* 6 U.S.C. § 557 (transferring function to the “Secretary, other official, or component of the Department to which such function is so transferred”).

21. However, federal law also requires that a local law enforcement official performing immigration functions pursuant to 287(g) agreements “shall not be treated as a Federal employee”—i.e., shall not be able to pursue injury or tort compensation against the federal government for injuries sustained performing functions under the agreement—but the local law enforcement officer is treated as acting under color of Federal authority for purposes of determining liability and immunity from suits “brought under Federal or State law.” 8 U.S.C. § 1357(g)(7)-(8).

II. HOUSE BILL 9: THE IMMIGRANT SAFETY ACT

22. Governor Michelle Lujan Grisham signed the ISA into law on February 5, 2026. The ISA went into effect on May 20, 2026.

23. The ISA, codified at Sections 13-9-1 to 13-9-6 of the New Mexico Statutes Annotated, prohibits “public bodies” from joining agreements to detain individuals for federal civil immigration violations or to deputize New Mexico law enforcement officers to perform the functions of immigration officers. §§ 13-9-3 to 13-9-4.

24. The ISA prohibits public bodies from making any agreements to detain individuals for federal civil immigration violations and requires public bodies to terminate any existing agreements to detain individuals for federal civil immigration violations. § 13-9-3(A)-(B). The ISA also prohibits public bodies from using real property to detain individuals for federal civil immigrations. § 13-9-3(C).

25. Under the ISA, public bodies may not make any to “agreement to investigate, apprehend, detain or transport individuals pursuant to 8 U.S.C. Section 1357(g) or 8 C.F.R. Section 287.7.” § 13-9-4(A).

26. The ISA also prohibits public bodies from agreeing to be a party to “an agreement that deputizes officers, employees or agents of the public body to perform a function of an immigration officer in relation to the investigation, apprehension, detention or transportation of noncitizens in the United States or the removal of noncitizens from the United States.” § 13-9-4(B).

27. Section 13-9-4(C) of the ISA requires public bodies to terminate any existing agreements “to investigate, apprehend, detain or transport individuals pursuant to 8 U.S.C. Section 1357(g) or 8 C.F.R. Section 287.7” at the earliest date permissible under the agreement. § 13-9-4(C).

28. The ISA defines public bodies to include “local government[s],” “sheriff’s department[s],” “any branch of government that receives public funding, including political subdivisions,” as well as “an entity or individual acting on behalf of or within the scope of the authority of the public body.” § 13-9-2.

29. The ISA expressly provides that its prohibitions do not prevent state or local law enforcement from “detain[ing] individuals or [] perform[ing] brief investigative stops as permitted by state law.” § 13-9-3(E).

30. The ISA preempts any conflicting local law or policy. § 13-9-3(D) (“A public body shall not impose or continue in effect any law, ordinance, policy or regulation that violates or conflicts with the provisions of [the ISA].”).

III. DEFENDANTS’ 287(g) MOA

31. In December 2025, Sheriff Frazee signed the MOA on behalf of the Torrance County Sheriff’s Office. The MOA was countersigned in March 2026 by Department of Homeland Security (“DHS”) Assistant Director Russel Holt. *See* Ex. 2, at 1, 7.

32. Upon information and belief, Defendant Sheriff Frazee also signed the MOA on behalf of Torrance County.

33. Even if Defendant Sheriff Frazee did not have authority to sign the MOA on behalf of Torrance County, Defendant Board implicitly ratified his actions and the MOA by failing to repudiate the agreement upon learning of its existence and/or failing to terminate the agreement. NMSA 1978, § 4-41-2.

34. The MOA allows either party to terminate or suspend the agreement with 90 days' notice, "unless exigent circumstances involving public safety dictate otherwise." Ex. 2, at 6.

A. Immigration Law Enforcement Functions

35. The MOA's stated purpose is "to facilitate the custodial transfer of designated aliens in [the Torrance County Sheriff's Office's] jail/correctional facilities to ICE within 48 hours of the alien's release from criminal custody." Ex. 2, at 8; *see also* Ex. 2, at 1.

36. Pursuant to the MOA, the Torrance County Sheriff's Office nominates personnel to carry out the immigration enforcement functions outlined in the agreement. Nominees approved by ICE then "must successfully complete initial training provided by ICE on relevant administrative, legal, and operational issues tailored to the immigration enforcement functions to be performed." Ex. 2, at 2.

37. Upon satisfying ICE's training and competency standards, ICE is to certify in writing those Torrance County Sheriff's deputies authorized to perform MOA functions, and Torrance County Sheriff personnel must carry ICE-issued and -owned credentials while performing immigration officer functions. Ex. 2, at 2-3, 8.

38. The MOA delegates to Torrance County Sheriff's personnel ICE's authority to:
(i) "serve and execute warrants of arrest for immigration violations, 8 U.S.C. § 1357(a) and 8

C.F.R. § 287.5(e)(3), on designated aliens in [Torrance County] jail/correctional facilities at the time of the alien’s scheduled release from criminal custody in order to transfer custody of the alien to ICE”; and (ii) “serve warrants of removal, 8 U.S.C. § 1357(a) and 8 C.F.R. §§ 241.2(b)(2), 287.5(e)(3), on designated aliens in [Torrance County] jail/correctional facilities at the time of the alien’s scheduled release from criminal custody that executes the custodial transfer of the alien to ICE for removal purposes.” Ex. 2, at 8.

39. The delegated ICE authority permits Torrance County Sheriff’s deputies to detain individuals for federal immigration violations—not state or local criminal violations—for up to 48 hours after such individual would otherwise be released under state law.

35. Indeed, the MOA makes clear that the Torrance County Sheriff’s Office will be detaining individuals in its local jails under ICE authority. The MOA states that “the alien will continue to be held in [Torrance County Sheriff’s Office] jail/correctional facilities” “[u]pon transfer of the alien’s custody to ICE.” Ex. 2, at 8. The MOA further states that “ICE will assume custody of an alien only after said individual has been released from [the Torrance County Sheriff’s] custody.” Ex. 2, at 1.

40. The MOA elsewhere states that the Torrance County Sheriff’s Office will detain individuals served with such warrants for no more than 48 hours “unless there exists an agreement pursuant to which [Torrance County Sheriff’s Office] will continue to detain, for a reimbursable fee, aliens for immigration purposes.” Ex. 2, at 8.

41. The MOA requires Torrance County Sheriff’s deputies to immediately notify ICE whenever an immigration arrest warrant or warrant for removal is executed, as well as “report all encounters [by certified deputies] with asserted or suspected claims of U.S. citizenship.” Ex. 2, at 9.

42. ICE dictates and determines the policies and procedures for Torrance County Sheriff personnel whenever performing functions authorized by the MOA. Ex. 2, at 3.

B. Disclosure of MOA-related Information and Records

43. The 287(g) MOA allows the Torrance County Sheriff's Office to disclose the MOA to third parties, but any information or records obtained via the MOA may not be released without first consulting ICE. Ex. 2, at 6

44. Further, any information "obtained or developed as a result of th[e] MOA, including any documents created by [the Torrance County Sheriff's Office] that contain information developed or obtained as a result of this MOA, is under the control of ICE and shall not be disclosed unless: 1) permitted by applicable laws, regulations, or executive orders; and 2) the [Sheriff's Office] has coordinated in advance of release with (a) the ICE Office of Public Affairs, which will consult the ICE Privacy Office for approval, prior to any release to the media, or (b) an ICE officer prior to releases to all other parties." Ex. 2, at 6.

45. The 287(g) MOA also requires the Torrance County Sheriff's Office to "cooperate with any Federal investigation related to [the MOA] to the full extent of its available powers, including providing access to appropriate databases, personnel, individuals in custody and documents." Ex. 2, at 5.

C. Allocation of Costs and Liabilities

46. Under the MOA, the Torrance County Sheriff's Office is responsible for virtually all expenses when deputized personnel engage in their 287(g) functions, including (a) salary, benefits, and overtime pay for deputized personnel when they are acting as ICE officers, and (b) any personal or property-related expenses incurred by deputized officers related to death, injury, or other incidents creating liability. Ex. 2, at 3, 4.

47. Any deputized officers who are sued in their personal capacity in lawsuits arising from “activities carried out under this MOA may request representation by the U.S. Department of Justice” but such representation “is granted at the discretion of DOJ; it is not an entitlement.” Ex. 2, at 4.

IV. LIMITED POWERS OF COUNTIES AND SHERIFFS

48. Sheriffs lack authority to enforce immigration law in the absence of a 287(g) agreement. *See C.F.C. v. Miami-Dade Cnty.*, 349 F. Supp. 3d 1236, 1258 (S.D. Fla. 2018) (“Only when acting under color of federal authority—that is, as directed, supervised, trained, certified, and authorized by the federal government—may state officers effect constitutionally reasonable seizures for civil immigration violations.”).

49. But immigration authorities cannot force state or local law enforcement to assist in enforcing federal immigration law, and 287(g) agreements do not authorize local law enforcement officers to violate state law. *See, e.g., New York v. United States*, 505 U.S. 144, 188 (1992); *Printz v. United States*, 521 U.S. 898, 935 (1997); 8 U.S.C. § 1357(g)(1), (9).

50. The ISA validly prohibits Defendants from entering into 287(g) agreements after its effective date and validly requires them to terminate any existing 287(g) MOA.

51. Moreover, ICE has not trained or certified Defendants or any Torrance County Sheriff’s Office personnel regarding the enforcement of relevant federal immigration laws. As a result, neither the INA nor the MOA grant Defendants any present authority to perform the functions described in the 287(g) MOA

52. Defendants also have no independent or alternative authority to perform any functions under the 287(g) MOA.

53. As a political subdivision of the State of New Mexico, Torrance County “possesses only such powers as are expressly granted to it by the Legislature, together with those necessarily implied to implement those express powers.” *State ex rel. Torrez v. Bd. of Cnty. Comm’rs for Lea Cnty.*, 2025-NMSC-011, ¶ 31, 572 P.3d 837 (quoting *El Dorado at Santa Fe, Inc. v. Bd. of Cnty. Comm’rs*, 1976-NMSC-029, ¶ 6, 89 N.M. 313).

54. Sheriffs similarly derive their authority from state law and may only exercise such powers and authorities as granted by statute.

55. State law provides that a sheriff shall be “conservator of the peace within his county; shall suppress assaults and batteries, and apprehend and commit to jail, all felons and traitors, and cause all offenders to keep the peace and to appear at the next term of the court and answer such charges as may be preferred against them.” NMSA 1978, § 4-41-2.

56. Sheriff’s deputies “are authorized to discharge all the duties that belong to the office of sheriff that may be placed under their charge.” NMSA 1978, § 4-41-9 (2017).

57. Defendant Board’s powers do not include the ability to authorize Torrance County Sheriff’s Office to make arrests or detentions that state law prohibits. *See, e.g., State v. Slayton*, 2009-NMSC-054, ¶ 16, 147 N.M. 340, 223 P.3d 337 (“Any authority granted to Blake by the City of Roswell to arrest individuals suspected of violating the Motor Vehicle Code would be nullified by statutory authority to the contrary.”).

58. As the United States Supreme Court has recognized, local governments lack authority to authorize detentions based solely on known or suspected immigration violations. *Arizona v. United States*, 567 U.S. 387, 410 (2012).

59. As a general matter, neither state nor federal law grants county sheriffs the authority to arrest or detain an individual solely for civil violations of federal immigration statutes.

60. State law requires a valid warrant or probable cause to believe that an individual has committed an act that the State of New Mexico has criminalized or prohibited before law enforcement officials can arrest or continue to detain the individual. *See, e.g.*, NMSA 1978, § 29-1-1 (1979); *State v. Snyder*, 1998-NMCA-166, ¶ 18, 126 N.M. 168, 967 P.2d 843.

61. New Mexico law does not recognize any civil or criminal offenses for violating federal immigration statutes. *See State v. Deltenre*, 1966-NMSC-187, 77 N.M. 497, 424 P.2d 782, cert. denied, 386 U.S. 976 (1967); *Arizona*, 567 U.S. at 407 (“If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.”); *Santos v. Frederick Cnty. Bd. of Comm’rs*, 725 F.3d 451, 465 (4th Cir. 2013) (“[S]uspicion or knowledge that an individual has committed a civil immigration violation, by itself, does not give a law enforcement officer probable cause to believe that the individual is engaged in criminal activity.”).

62. Similarly, a suspected violation of federal immigration statutes does not empower New Mexico law enforcement officers to detain an individual otherwise entitled to release under state law.

63. Under the New Mexico Constitution, prolonging an individual’s detention solely for suspected violations of federal immigration law amounts to a new seizure. *See* N.M. CONST. art. II, § 10; *Garcia v. State*, 2009-NMSC-046, ¶¶ 26, 35, 147 N.M. 134, 217 P.3d 1032; *Morales v. Chadbourne*, 793 F.3d 208, 217 (1st Cir. 2015); *see also Ramon v. Short*, 460 P.3d 867, 875 (Mont. 2020) (“There is broad consensus around the nation that an immigration detainer constitutes a new arrest.”).

64. Except in limited circumstances not relevant here, local law enforcement needs a criminal arrest warrant finding a violation of state law in order to seize or arrest an individual. *See Wong Sun v. United States*, 371 U.S. 471, 481-82 (1963) (“[T]he deliberate, impartial judgment of

a judicial officer” is a key protection that is “interposed between the citizen and the police.”); *State v. Veith*, 2022-NMCA-039 ¶ 8, 516 P.3d 177 (explaining New Mexico's strong preference for arrest warrants and exceptions for the warrant requirement).

65. The immigration arrest warrants described in Defendants’ 287(g) MOA do not satisfy New Mexico’s standard for a criminal arrest warrant and do not, by themselves, give local law enforcement authority to make an arrest or seizure.

66. An immigration arrest warrant is issued by executive *officials* who work within DHS and is not supported by the deliberation and findings of a neutral magistrate or other due process requirements. *See* 8 C.F.R. § 287.5(e)(2).

67. Indeed, the DHS General Counsel recently confirmed this principle, stating, “Under federal immigration law, officers may issue an administrative warrant, which means that the probable-cause finding is made by an executive-branch officer rather than a judicial officer.”³

68. Similarly, the warrant of removal described in the 287(g) MOA is not the equivalent of a criminal removal warrant that orders an individual transferred from one jurisdiction to another. An immigration removal warrant is issued by executive *officials* who work within DHS and is not supported by the deliberation and findings of a neutral magistrate or other due process requirements. *See* 8 C.F.R. § 241.2(a)(1).

69. New Mexico law does not grant sheriffs or their deputies the power to serve and execute federal administrative immigration arrest or removal warrants, as it does regarding criminal warrants and other criminal process issued by magistrate judges. *See* NMSA 1978, §§ 4-41-14, 31-1-4; *State v. Cardenas-Alvarez*, 2001-NMSC-017, ¶ 18, 130 N.M. 386, 25 P.3d 225 (“We

³ Dep’t of Homeland Sec., *DHS Sets the Record Straight on Administrative Warrants and American Public Support of President Trump’s Deportations of Illegal Aliens* (Feb. 4, 2026), available at <https://www.dhs.gov/news/2026/02/04/dhs-sets-record-straight-administrative-warrants-and-american-public-support> [https://perma.cc/H42R-RW76].

find no mandate in the text of Article II, Section 10, nor in our jurisprudence interpreting this clause, to selectively protect New Mexico’s inhabitants from intrusions committed by state but not federal governmental actors. Nor do we believe such a limitation is appropriate. Unlike the private actors with whom the State compares them, federal agents exercise jurisdiction over New Mexicans and possess the authority to systematically subject our inhabitants to searches, seizures and other interferences. A federal agent who wields these powers unreasonably commits precisely the sort of ‘unwarranted governmental intrusion’ against which the New Mexico Constitution ensures. We hold that when a federal agent effectuates such an intrusion and the State proffers the evidence thereby seized in state court, we will subject it to New Mexico's exclusionary rule.”).

FIRST CAUSE FOR DECLARATORY RELIEF
VIOLATION OF THE IMMIGRATION SAFETY ACT (ISA)

70. Plaintiff incorporates by reference all preceding paragraphs as though stated fully herein.

71. The ISA prohibits public bodies from –

a. “agree[ing] to be a party to an agreement to detain individuals for federal civil immigration violations,” § 13-9-3(A),

b. entering, extending, renewing, or otherwise agreeing to be a party to “an agreement to investigate, apprehend, detain, or transport individuals pursuant to 8 U.S.C. Section 1357(g) or 8 C.F.R. § 287.7,” i.e., a 287(g) agreement, § 13-9-4(A), and

c. “agree[ing] to be a party to an agreement that deputizes officers, employees or agents of the public body to perform a function of an immigration officer in relation to the investigation, apprehension, detention or transportation of noncitizens in the United States or the removal of noncitizens from the United States,” § 13-9-4(B).

72. The ISA also requires public bodies to terminate any existing agreements, upon the

earliest date permissible under the agreement's terms, to –

- a. “detain individuals for federal civil immigration violations,” § 13-9-3(B),
and
- b. “investigate, apprehend, detain or transport individuals pursuant to 8 U.S.C.
Section 1357(g) or 8 C.F.R. Section 287.7,” § 13-9-4(C).

73. On information and belief, Defendant Board authorized Defendant Sheriff Frazee to enter the 287(g) MOA on behalf of Torrance County.

74. Even if Defendant Sheriff Frazee lacked authority to enter the 287(g) MOA on behalf of Torrance County, Defendant Board's failure to repudiate the MOA and/or its failure to give ICE notice of termination of the MOA as required by the ISA, demonstrates ratification of the agreement. *See, e.g., Bd. of Cnty. Com'rs of Cnty. of Bernalillo v. Chavez*, 2008-NMCA-028, ¶ 15 (finding that a county board could be found to have ratified ““unauthorized act[s] performed on its behalf by an agency” (quoting *Johnson & Johnson v. Taxation & Revenue Dep't*, 1997–NMCA–030, ¶ 16, 936 P.2d 872). “Upon acquiring knowledge of the agent's unauthorized act, the principal should promptly repudiate the act. Otherwise, it will be presumed he has ratified and affirmed it.” *Grandi v. LeSage*, 1965-NMSC-017, ¶ 26, 399 P.2d 285 (cleaned up) (quoted with approval in *Chavez*, 2008-NMCA-028, ¶ 15, 178 P.3d 828).

75. The 287(g) MOA commits Torrance County Sheriff's Office resources, personnel, and facilities to arresting and detaining individuals for federal civil immigration violations. Ex. 2, at 8.

76. The 287(g) MOA also creates the risk of legal and financial liability for Torrance County and the Torrance County Sheriff Office through the acts they undertake to serve and execute immigration arrest warrants and/or serve immigration warrants of removal.

77. The ISA took effect on May 20, 2026, and requires Defendants to immediately begin terminating the MOA. Ex. 2, at 6.

78. The Attorney General therefore seeks an Order from this Court declaring Defendants have a legal duty to immediately terminate the 287(g) MOA.

SECOND CAUSE FOR DECLARATORY RELIEF
ULTRA VIRES

79. Plaintiff incorporates by reference all preceding paragraphs as though stated fully herein.

80. The MOA authorizes Torrance County Sheriff's deputies to perform detentions and arrests that they are not permitted to perform under New Mexico law. *See Lea Cnty.*, 2025-NMSC-011, ¶ 31.

81. Torrance County Sheriff's Office personnel lack authority under state and federal law to perform the immigration enforcement functions described in the MOA. State law does not authorize the arrest or seizure of an individual solely for suspected violations of federal immigration law, and the INA, Section 1357(g), prohibits local law enforcement from performing 287(g) without first receiving DHS' training and certification.

82. On information and belief, ICE has yet to provide any of the training required under the MOA and federal law to any Torrance County Sheriff's personnel.

83. On information and belief, ICE has yet to certify or authorize Defendants or any Torrance County official to perform the immigration enforcement functions described in the 287(g) MOA.

84. Suspected civil violations of federal immigration law, standing alone, do not allow sheriff's deputies or other county law enforcement personnel to make arrests or maintain an individual's detention.

85. Therefore, the Attorney General seeks an Order from the Court declaring that Defendants and their employees and officials lack authority to arrest any individual, or to prolong the detention of any individual, solely for violations of federal civil immigration law.

PRAYER FOR RELIEF

WHEREFORE, the State prays the Court enter an Order:

A. Declaring that the Immigrant Safety Act, NMSA 1978, Sections 13-9-1 to -6, requires Defendants to immediately terminate the 287(g) MOA and prohibits Defendants from entering into any new 287(g) agreements with ICE;

B. Declaring that Defendants may not arrest or detain any individual solely for suspected civil violations of federal immigration law or solely based on an immigration arrest warrant or warrant of removal absent a judicial warrant or court order;

C. Preliminarily and permanently enjoining Defendants from exercising any rights under, enforcing, or modifying the 287(g) MOA other than to terminate it; and

D. Awarding any other relief to which the State is entitled or the Court deems just, necessary, and fair.

Dated: May 27, 2026

Respectfully submitted,

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By: /s/ Ben Osborn

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