

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RENSSELAER

In the Matter of the Application of

PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, *Attorney General of the State of
New York*,

Petitioner-Plaintiff,

For an Order Pursuant to Article 78 of the Civil Practice
Law and Rules and a Declaratory Judgment Pursuant to
CPLR 3001,

– against –

KYLE BOURGAULT, in his Official Capacity as
Sheriff of the Rensselaer County Sheriff's Office,
RENSSELAER COUNTY SHERIFF'S OFFICE, and
COUNTY OF RENSSELAER,

Respondents-Defendants.

Index No.: _____

SUMMONS

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Verified Hybrid Complaint and Verified Petition (hereinafter, the "Complaint") in this hybrid proceeding/action and to serve a copy of your answer, or if the Complaint is not served with this Summons, to serve a notice of appearance on the Petitioner's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after the completion of service wherein service is made in any manner other than by personal delivery within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

PLEASE TAKE FURTHER NOTICE that venue in this action is placed in Rensselaer County because Respondents are situated in Rensselaer County.

Respectfully submitted,

LETITIA JAMES
New York Attorney General

Dated: August 27, 2026
Albany, New York

By: 

Zoe Levine
Interim Bureau Chief, Office of Immigrant Trust
Kasia Donohue, Assistant Attorney General
Office of the New York Attorney General
The Capitol
Albany, NY 12224
Telephone: (518) 776-2000
Kasia.Donohue@ag.ny.gov

Attorneys for the People of the State of New York

To: Kyle Bourgault
Sheriff
Rensselaer County Sheriff's Office
4000 Main Street
Troy, NY 12180

To: Rensselaer County Sheriff's Office
4000 Main Street
Troy, NY 12180

To: County of Rensselaer
99 Troy Road
East Greenbush, NY 12061

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RENSSELAER

In the Matter of the Application of

PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, *Attorney General of the State of New
York,*

Petitioner-Plaintiff,

For an Order Pursuant to Article 78 of the Civil Practice
Law and Rules and a Declaratory Judgment Pursuant to
CPLR 3001,

– against –

KYLE BOURGAULT, in his Official Capacity as
Sheriff of the Rensselaer County Sheriff's Office,
RENSSELAER COUNTY SHERIFF'S OFFICE, and
COUNTY OF RENSSELAER,

Respondents-Defendants.

Index No.: _____

**HYBRID VERIFIED PETITION
AND VERIFIED COMPLAINT**

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioner-Plaintiff (hereinafter, "Petitioner"), People of the State of New York, by Letitia James,
Attorney General of the State of New York, respectfully alleges:

INTRODUCTION

1. On May 27, 2026, the New York State Legislature passed, and the Governor signed, the Local Cops, Local Crimes Act. SB 9005-C, A. 10005-C, Part LL, codified at N.Y. Exec. Law § 170-k (the "Local Cops, Local Crimes Act").

2. The Local Cops, Local Crimes Act prohibits local governments and law enforcement agencies from having a written agreement under Section 287(g) of the Immigration and Nationality Act (INA) or similar arrangements that divert resources away from local public safety priorities to federal civil immigration enforcement. The Local Crimes, Local Cops Act

further mandates law enforcement agencies to exercise any termination provision of such agreements within 90 days of its effective date, by August 25, 2026. *See* N.Y. Exec. Law § 170-k(7)(a); Bill No. S. 9005-C, A. 10005-C, Part LL § 4.

3. Since June 10, 2020, Rensselaer County Sheriff's Office (RCSO) has maintained a Memorandum of Agreement with the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) pursuant to INA Section 287(g) (the "RCSO 287(g) Agreement").

4. On July 24, 2026, Meghan Faux, then-Deputy Chief Attorney General for the Social Justice Division at the Office of the New York State Attorney General (OAG), sent by certified mail and email a letter to RCSO Sheriff Kyle Bourgault, alerting him and RCSO to the enactment and requirements of portions of the Local Cops, Local Crimes Act, and requesting that the agency submit information regarding the status of its 287(g) agreement by August 14, 2026, via email to immigrant.trust@ag.ny.gov.

5. OAG did not receive any response from Sheriff Bourgault or any other agent of the RCSO by August 14, 2026, as to whether its 287(g) agreement had been, or would be, terminated by the statutory deadline.

6. On August 19, 2026, Zoe Levine, Interim Bureau Chief of the Office of Immigrant Trust, sent an email to RCSO Sheriff Kyle Bourgault, with a formal investigative demand pursuant to New York Executive Law Section 63-E, compelling production of documents, returnable on or before August 25, 2026, sufficient to show what action(s) RCSO, or any agent thereof, has taken to terminate the RCSO 287(g) Agreement (the "Investigative Demand").

7. On August 20, 2026, RCSO was served a hard copy of the Investigative Demand.

8. OAG did not receive any response to the Investigative Demand from Sheriff Bourgault or any other agent of the RCSO by August 25, 2026.

9. As of the date of this filing, OAG has not received confirmation from Sheriff Bourgault or any other agent of the RCSO that the RCSO 287(g) agreement has been terminated.

10. According to ICE's website, RCSO has an active 287(g) Agreement. *See* ICE, Identify and Arrest, <http://www.ice.gov/identify-and-arrest/287g> (last visited Aug. 27, 2026).

11. RCSO's failure to timely terminate the RCSO 287(g) Agreement violates the clear mandate set forth in the Local Cops, Local Crimes Act. *See* N.Y. Exec. Law § 170-k(7)(a).

12. Accordingly, Petitioner seeks entry of an Order mandating that Respondents comply with the Local Cops, Local Crimes Act by exercising the termination provision of the RCSO 287(g) Agreement.

13. Petitioner also seeks a declaratory judgment that the RCSO 287(g) Agreement is "void and unenforceable" as a matter of law pursuant to the Local Cops, Local Crimes Act.

NATURE OF ACTION

14. This hybrid action is brought pursuant to Article 78 of the New York Civil Practice Law & Rules (CPLR), seeking an Order directing Sheriff Kyle Bourgault, in his Official Capacity as Sheriff of the RCSO, the RCSO, and the County of Rensselaer (together, the "Respondents") to terminate the RCSO 287(g) Agreement.

15. This action is also brought pursuant to CPLR § 3001, seeking a declaratory judgment that the RCSO 287(g) Agreement is void and unenforceable as a matter of

JURISDICTION AND VENUE

16. This Court has jurisdiction over the parties and this proceeding pursuant to Article 78 of the CPLR and CPLR § 3001.

17. Pursuant to CPLR §§ 7804(b) and 506(b), venue in this proceeding lies in Rensselaer County, in the judicial district in which the Respondents took the action challenged here and where the offices of the Respondents are located.

18. Pursuant to CPLR § 7803(1), this proceeding raises questions of whether Respondents, in failing to terminate the RCSO 287(g) Agreement in compliance with New York Executive Law Section § 170-k, failed to perform a duty enjoined upon them by law.

PARTIES

19. Petitioner is the People of the State of New York, represented by and through its attorney, Letitia James, Attorney General of the State of New York.

20. The Attorney General is New York's chief legal officer and "prosecute[s] . . . all actions and proceedings in which the state is interested." N.Y. Exec. Law § 63(1). OAG, through its Office of Immigrant Trust, is charged with enforcing the Local Cops, Local Crimes Act. N.Y. *See* N.Y. Exec. Law § 63-E.

21. Petitioner has a significant interest in ensuring the robust application of the recently enacted Local Cops, Local Crimes Act to support the State of New York's critical public policy goals: to preserve public trust in law enforcement and prevent the diversion of police resources from law enforcement's core mission of protecting public safety and preventing crime.

22. Respondent Kyle Bourgault is sued in his official capacity as Sheriff of the RCSO. Respondent Bourgault leads the RCSO but has taken no action to terminate that RCSO 287(g) Agreement before the August 25, 2026 deadline as required by the Local Cops, Local Crimes Act. Respondent Bourgault is a "body or officer" pursuant to CPLR § 7802(a).

23. Respondent RCSO remains a party to the RCSO 287(g) Agreement, in violation of New York state law. Respondent RCSO is a "body or officer" pursuant to CPLR § 7802(a).

24. Respondent Rensselaer County established and oversees RCSO, which is a party to the RCSO 287(g) Agreement, and has taken no action to terminate the RCSO 287(g) Agreement before the August 25, 2026 deadline to terminate. Respondent Rensselaer County is a “body or officer” pursuant to CPLR § 7802(a).

FACTS

I. BACKGROUND

25. To the extent consistent with state law, INA Section 287(g), codified at 8 U.S.C. § 1357(g), permits state and local law enforcement agencies to enter into agreements with the federal government under which state or local law enforcement officers are deputized to perform the functions of ICE officers, including stopping, interrogating, and arresting individuals believed to be subject to removal from the country, either pursuant to a warrant issued by ICE or based on reasonable suspicion that the individual is subject to removal. The agreements are referred to as 287(g) agreements.

26. On March 5, 2020, Patrick Russo, then acting as the sheriff of RCSO, signed the RCSO 287(g) Agreement. The RCSO 287(g) Agreement was countersigned by C.M. Cronen, Assistant Director of Enforcement at ICE on June 10, 2020. (Kasia Donohue Affirmation (“Donohue Aff.”), Ex. 1).

27. The RCSO 287(g) Agreement is a “Jail Enforcement Model” Agreement. That agreement states that RCSO officers who are designated and certified by ICE as properly trained may act as immigration officers, including interrogating persons suspected of being noncitizens about their ability to remain in the United States; serving and executing administrative warrants of arrest for immigration violations on a designated noncitizen in the agency’s correctional facilities in order to transfer them into ICE’s custody or which, as a matter of law, effects their transfer to

ICE custody meanwhile continuing to hold them in the jail up to 48 hours thereafter. RCSO 287(g) Agreement § IV(A), Appendix A.

28. The RCSO 287(g) Agreement includes a provision that the agreement “will remain in effect until either party, upon 90-day written notice to the other party, provides notice of termination or suspension of the MOA,” delivered in person or sent by certified or registered mail. RCSO 287(g) Agreement § VIII.

II. ENACTMENT OF LOCAL COPS, LOCAL CRIMES ACT

29. The Local Cops, Local Crimes Act was signed into law on May 27, 2026.

30. The Local Cops, Local Crimes Act is a lawful exercise of New York’s sovereign authority to promote public safety and keep its residents safe, as well as to ensure its subdivisions are expending limited resources in a manner consistent with State priorities.

31. Section 287(g) is a voluntary federal program. It provides that the State, or any political subdivision of a State, may enter into a voluntary, written agreement with the federal government, pursuant to which an officer or employee of the State or subdivision, who is determined by the United States Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of noncitizens in the United States (including the transportation of such noncitizens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law. 8 U.S.C. § 1357(g)(1).

32. Many states have enacted legislation expressly regulating whether and how their local law enforcement agencies may enter 287(g) agreements and what enforcement activities these agreements may authorize. *See, e.g.* Colo. Rev. Stat. § 24-76.6; New Mexico H.B.9; N.J. Attorney General Law Enforcement Directive No. 2018-6 v2.0 (Sept. 27, 2019).

33. New York has now joined these states by enacting the Local Cops, Local Crimes Act. The new law states, among other things, that “any law enforcement agency, correctional facility, local correctional facility . . . or agent thereof” which is a party to a 287(g) agreement “shall exercise any applicable termination provision contained within such an agreement” within 90 days after the effective date of the law, *i.e.* by August 25, 2026. N.Y. Exec. Law § 170-k(7)(a); *see* Local Cops, Local Crimes Act, Bill No. S. 9005-C, A. 10005-C, Part LL § 4. At the same time, any 287(g) agreements in force at the time of the statute’s enactment “shall be deemed not consistent with state law” and will therefore become “void and unenforceable” in their entirety on August 25, 2026, which is 90 days after the statute’s enactment. *Id.*

34. Effective immediately upon its enactment, the Local Cops, Local Crimes Act also prohibits any local government or law enforcement agency from entering into, modifying, renewing, remaining in, or extending “any agreement pursuant to subsection 287(g)” of the INA, including, but not limited to, any agreement “under which an officer or employee may engage in or assist immigration enforcement, or otherwise may perform a function of an immigration officer.” N.Y. Exec. Law § 170-k(2)(a); *see* Local Cops, Local Crimes Act, Bill No. S. 9005-C, A. 10005-C, Part LL § 4.

35. A request for a preliminary injunction in a recent challenge to the Local Cops, Local Crimes Act’s ban on 287(g) agreements was rejected by the federal court in the Northern District of New York. *See United States v. State of New York*, Dkt. No. 26-cv-1360, ECF No. 53 (N.D.N.Y. Aug. 3, 2026).

III. CURRENT STATUS OF RCSO 287(g) AGREEMENT

36. On July 24, 2026, Meghan Faux, then-Deputy Chief Attorney General for the OAG’s Social Justice Division, sent by certified mail and email a letter to Respondent Bourgault,

alerting him and RCSO to the enactment and requirements of portions of the Local Cops, Local Crimes Act, and requesting that the agency submit information regarding the status of its 287(g) agreement by August 14, 2026, via email to immigrant.trust@ag.ny.gov. (Zoe Levine Affirmation (“Levine Aff.”), Exs. A, B, and C).

37. A few days later, Rensselaer County Executive Steve McLaughlin told Nick Resiman of Politico, “We’re not going to comply. I’m very clear on that. As I said last night [to Gov. Kathy] Hochul and James, you could take that letter, crumple it up and shove it.” *ICE’s County Brawl*, Politico (July 28, 2026). (Donohue Aff., Ex. 2).

38. OAG did not receive any response from Sheriff Bourgault or any other agent of the RCSO by August 14, 2026, that its 287(g) agreement had been terminated or would be terminated by the statutory deadline. *See* Levine Aff. ¶¶ 6-7.

39. On August 19, 2026, Zoe Levine, Interim Bureau Chief of the Office of Immigrant Trust, sent an email to RCSO Sheriff Bourgault, with an Investigative Demand returnable on or before August 25, 2026, compelling production of documents sufficient to show what action(s) RCSO, or any agent thereof, has taken to terminate the RCSO 287(g) Agreement. (Levine Aff., Exs. D and E).

40. On August 20, 2026, RCSO was served a hard copy of the Investigative Demand. (Levine Aff., Ex. F).

41. OAG did not receive any response to the Investigative Demand from Sheriff Bourgault or any other agent of the RCSO by August 25, 2026. *See* Levine Aff. ¶¶ 8-11.

42. However, as part of a lawsuit filed against the State of New York on August 25, 2026, challenging the Local Cops, Local Crimes Act, Sheriff Bourgault affirmed that as of that

filing date, he “did not terminate the 287(g) agreement.” Sheriff Bourgault Affirmation, ECF No. 5-3 ¶ 109, *Bourgault v. Hochul*, Dkt. 26-cv-01637 (N.D.N.Y.).

43. According to ICE’s website, RCSO has an active 287(g) Agreement. *See* ICE, Identify and Arrest, <http://www.ice.gov/identify-and-arrest/287g> (last visited Aug. 27, 2026). (Donohue Aff., Ex. 3.)

AS AND FOR FIRST CAUSE OF ACTION:
(Mandamus to Compel (Article 78))

44. Petitioner repeats and realleges each and every allegation contained in paragraphs 1 through 43.

45. Section 7803(1) of the CPLR provides a cause of action where a body or officer has failed to perform a duty enjoined upon it by law.

46. As set forth herein and upon information and belief, the RCSO has failed to comply with its nondiscretionary duty to terminate the RCSO 278(g) Agreement as it is required to do pursuant to the Local Cops, Local Crimes Act. *See* N.Y. Exec. Law § 170-k(7)(a).

47. Section 7801 of the CPLR provides that the relief historically available by the former writs of certiorari to review, mandamus and prohibition are all available now through proceedings brought under Article 78. CPLR § 7803 supplements that provision by setting forth “[t]he only questions that may be raised in a proceeding under. . . article [78].” *NYC Health and Hospitals Corp. v. McBarnette*, 84 N.Y.2d 194, 204 (1994). Taken together, these statutes and the body of common law they incorporate are necessarily the prime reference points for determining whether a particular claim against a public body or officer may be brought in the form of an Article 78 proceeding. *See id.*

48. A writ of mandamus is a remedy that lies “only to enforce a clear legal right where the public official has failed to perform a duty enjoined by law.” *Alliance to End Chicks as Kaporos*

v. New York City Police Department, 32 N.Y.3d 1091, 1093 (2018); *see also New York Civ. Liberties Union v. State of New York*, 4 N.Y.3d 175, 184 (2005).

49. While mandamus will not be awarded for discretionary acts, it is an appropriate remedy to enforce the performance of a ministerial duty. *Matter of Gimprich v. Board of Educ.*, 306 N.Y. 401, 406 (1954) (quoting *People ex rel. Hammond v. Leonard*, 74 N.Y. 443, 445 (1978)).

50. A ministerial act is best described as one that is mandated by some rule, law or other standard and typically involves a compulsory result. Discretionary acts, on the other hand, are not mandated and involve the exercise of reasoned judgment, which could typically produce different acceptable results. *Common Cause New York v. Kosinski*, 241 A.D.3d 1036, 1041 (3d Dep’t 2025).

51. Section 170-k(1)(a) defines “law enforcement agency” to mean: “the New York state police and any law enforcement agency or department of any municipality, any police district, or any agency, department, commission, authority or public benefit corporation of the state of New York employing a police officer as that term is defined in subdivision thirty-four of section 1.20 of the criminal procedure law or peace officer as that term is defined in section 2.10 of the criminal procedure law, except for the port authority of New York and New Jersey.” N.Y. Exec. L. § 170-k(1)(a).

52. RCSO fits squarely in the definition of “law enforcement agency” under Section 170-k(1)(a).

53. Section 170-k(7)(a) of the Local Cops, Local Crimes Act states:

Any agreement described in subdivision two of this section shall be deemed not consistent with state law and any such agreement existing upon the effective date of this section shall be void and unenforceable, and any law enforcement agency, correctional facility,

local correctional facility, juvenile detention facility, or facility for youth placed with or committed to the office of children and family services, or agent thereof shall exercise any applicable termination provision contained in such agreement.

N.Y. Exec. Law § 170-k(7)(a).

54. The duty enjoined upon RCSO by law is to exercise the applicable termination provision and terminate the RCSO 287(g) Agreement pursuant to INA Section 287(g) by August 25, 2026. N.Y. Exec. Law § 170-k(7)(a).

55. Here, ordering RCSO to comply with the mandatory directive of the Local Cops, Local Crimes Act is appropriate and allowable pursuant to CPLR § 7803(1). *Klostermann v. Cuomo*, 61 N.Y.2d 525, 539 (1984).

AS AND FOR SECOND CAUSE OF ACTION:
(Declaratory Judgment)

56. Petitioner repeats and realleges each and every allegation contained in paragraphs 1 through 55.

57. As of May 27, 2026, Respondents could not maintain the RCSO 287(g) Agreement, per the Local Cops, Local Crimes Act.

58. The RCSO 287(g) Agreement became “void and unenforceable” 90 days thereafter, on August 25, 2026, pursuant to N.Y. Exec. Law § 170-k(7)(a).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests judgment as follows:

- a) On the First Cause of Action, issuing an order of mandamus pursuant to CPLR § 7806 ordering Respondents to terminate the RCSO 287(g) Agreement;
- b) On the Second Cause of Action, declaring RCSO’s 287(g) Agreement void and unenforceable as a matter of law; and

c) Granting Petitioner-Plaintiff any and all further relief as this Court deems just and proper.

Respectfully submitted,

LETITIA JAMES
New York Attorney General

By: 

Zoe Levine
Interim Bureau Chief, Office of Immigrant Trust
Kasia Donohue, Assistant Attorney General
Office of the New York State Attorney General
The Capitol
Albany, NY 12224
Telephone: (518) 776-2000
Kasia.Donohue@ag.ny.gov

Dated: August 27, 2026
Albany, New York

Attorneys for the People of the State of New York

VERIFICATION

KASIA DONOHUE, an attorney admitted to practice before the courts of the State of New York, hereby affirms and certifies that:

I am an Assistant Attorney General in the Office of Letitia James, Attorney General of the State of New York, who appears on behalf of the People of the State of New York as Petitioner-Plaintiff in this proceeding. I am duly authorized to make this verification.

I have read the annexed verified petition and complaint, know the contents thereof, and state that the same are true to my knowledge, except for those matters alleged to be upon information and belief, and as to those matters I believe them to be true.

The reason this verification is made by your affirmant and not by the State of New York is that the State of New York is a body politic and sovereign acting through its officials and agents.

Dated: Albany, New York
August 27, 2026



Kasia Donohue