

Summary of S. 1842 — Protecting American Lives Act

July 30, 2015

Senator Jeff Sessions (R-AL) introduced the “Protecting American Lives Act” to target sanctuary cities— State and local jurisdictions with policies that obstruct immigration enforcement. Specifically, the bill denies certain Federal funds to jurisdictions that refuse to share information about criminal aliens with the Federal government or refuse to recognize Immigration and Customs Enforcement (ICE) detainer requests. The bill’s original cosponsors include Sens. Ron Johnson (R-WI), Tom Cotton (R-AR), James Inhofe (R-OK), and Ted Cruz (R-TX).

The bill requires State and local jurisdictions to *share* information on criminal aliens with the Federal government. Section 3 amends Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) [8 U.S.C. § 1373] clarifying that a Federal, State, or local government “shall not” (rather than “may not”) prohibit the sending or receiving of an individual’s immigration status. Additionally, it bars actions that prohibit (1) notifying the Federal government about inadmissible and deportable aliens law enforcement encounter or (2) complying with requests for information from Federal law enforcement.

The bill requires State and local jurisdictions to *collect* immigration information on detained aliens. Many sanctuary jurisdictions refuse to collect immigration information on detained individuals to avoid having to share it with the Federal government under IIRIRA Section 642. Section 3 eliminates this loophole by requiring States and political subdivisions to timely provide the DHS Secretary “identifying information” of all aliens in custody who are believed to be inadmissible or deportable. The bill reimburses States and localities for the cost of complying with this provision and requires the DHS Secretary to annually submit to Congress a list of States and political subdivisions that are noncompliant. The bill clarifies that law enforcement are not required to provide DHS with information about victims or witnesses of crimes or “otherwise report or arrest such a victim or witness.”

The bill defines sanctuary jurisdictions. Currently there is no standard definition of a sanctuary jurisdiction. Section 3 statutorily defines and prohibits “sanctuary policies”: “a Federal, State, or local government entity or official shall not issue in the form of resolutions, ordinances, administrative actions, general or special orders, or departmental policies that violate Federal law or restrict a State or political subdivision of a State from complying with Federal law or coordinating with Federal law enforcement.”

The bill denies federal funds to sanctuary jurisdictions. To ensure compliance with revised IIRIRA Section 642 and other Federal law, the bill denies sanctuary jurisdictions (1) SCAAP funds; (2) COPS grants; (3) law enforcement grants; and (4) Department of Homeland Security (DHS) grants for at least one year. The bill requires the DHS Secretary to annually submit to Congress a list of States and

political subdivisions that are noncompliant. Additionally, a jurisdiction can only regain eligibility for these grants after the Secretary certifies they are compliant. Federal funds withheld from noncompliant jurisdictions are distributed to compliant jurisdictions.

The bill requires the Federal government to issue ICE Detainers and State and local jurisdictions to comply with them. Part of the way the Obama administration has dismantled immigration enforcement is by refusing to issue ICE detainers—requesting State and local authorities keep criminal aliens in custody until Federal officials can assume custody and begin removal proceedings. Section 4(a) stops this practice by requiring the DHS Secretary to “execute all lawful writs, process, and orders.” Section 4(b) requires States and political subdivisions to comply with ICE detainers. This section denies (1) SCAAP funding; (2) COPS grants; (3) law enforcement grants; and (4) Department of Homeland Security (DHS) grants to jurisdictions with policies that refuse to comply with ICE detainers. This section also gives State officials immunity for holding aliens under a detainer until transferred to Federal custody. Finally, this section expressly states that an ICE detainer establishes probable cause that the alien is inadmissible or deportable.

The bill establishes mandatory minimum sentences for illegal reentry. Section 5 amends INA Section 276(a) to establish a mandatory minimum 5 year sentence for previously removed illegal aliens. Similarly, Section 5 amends INA Section 276(b) to establish a mandatory minimum 5 year sentence for certain previously removed criminal aliens.