



Summary of S. 2146

Stop Sanctuary Policies and Protect Americans Act

October 2015

Senator David Vitter (R-LA) introduced the “Stop Sanctuary Policies and Protect Americans 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 ICE detainer requests. The bill also increases penalties for certain previously removed illegal aliens who reenter the country unlawfully. The bill’s original cosponsors include Judiciary Chairman Chuck Grassley (R-IA) and Sens. Pat Toomey (R-PA), Ted Cruz (R-TX), Ron Johnson (R-WI), John Cornyn (R-TX), David Perdue (R-GA), Johnny Isakson (R-GA), Marco Rubio (R-FL), John Barrasso (R-WY), Dan Sullivan (R-AK), and James Inhofe (R-OK).

I. The bill defines sanctuary jurisdictions.

Currently there is no standard definition of a sanctuary jurisdiction. Section 2 statutorily defines “sanctuary jurisdiction” as “any State or political subdivision of a State, including any law enforcement entity” that “has in effect a statute, ordinance, policy, or practice” that (1) violates Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) Section 642 (8 U.S.C. § 1373) or (2) “prohibits any government entity or official from complying” with a lawfully issued detainer request. This two-pronged definition establishes a uniform standard nationwide that jurisdictions that (1) fail to share immigration information with the federal government or (2) refuse to adhere to detainer requests are sanctuary jurisdictions.

II. The bill denies law enforcement and HUD grants to sanctuary jurisdictions and reallocates those federal funds to compliant jurisdictions.

Sanctuary policies violate our immigration laws. Accordingly, the bill denies certain federal funds to State and local jurisdictions that choose to maintain their sanctuary policies in defiance of federal law.

Department of Justice Grants

Section 3(a) makes all sanctuary jurisdictions ineligible for SCAAP funds and denies COPS grants to local law enforcement agencies with sanctuary jurisdiction policies **unless** the policies are required by State law. [The limited withholding of COPS grants is included to not punish local law enforcement agencies that are forced to comply with a State sanctuary law.] The bill requires the Attorney General to terminate these grants for sanctuary jurisdictions within 30 days and Section 3(b) reallocates the withheld federal funds to all other jurisdictions that follow federal immigration law.

Housing and Urban Development (HUD) Grants

Section 3(a) also denies HUD community development block grants to sanctuary jurisdictions and requires localities that subsequently adopt sanctuary policies to return all funds that are not obligated. If a locality (rather than the entire State) is a sanctuary jurisdiction, the redistribution of the withheld funds depends on whether or not the jurisdiction is urban. If it is a “nonentitlement area” (not a metropolitan city or urban county; 42 U.S.C. § 5302(a)(7)), the previously dispersed funds are returned to the Governor to distribute elsewhere in the State. If it is not a “nonentitlement area” (meaning a city or urban county), the previously dispersed funds are returned to the HUD Secretary to be distributed to other States that comply with federal immigration law. Additionally, the HUD Secretary must verify on a quarterly basis whether a State or local government is a sanctuary jurisdiction and provide notice of the designation.

III. The bill provides protections to immigrant victims and witnesses of crime.

State and local jurisdictions often justify their sanctuary policies by claiming that illegal aliens will be more likely to report crimes to police without fear of deportation. There is not verifiable evidence to support this claim because law enforcement rarely, if ever, inquires about the immigration status of crime witnesses. Regardless, Section 3(e) explicitly states that law enforcement is not required to provide the Department of Homeland Security (DHS) with “information related to a victim or a witness to a criminal offense.”

IV. The bill increases transparency by listing all sanctuary jurisdictions on Federal government websites.

Section 3(c) requires the DHS Secretary to report to the Senate and House Judiciary Committees within 5 days of designating a sanctuary jurisdiction. The report must explain the basis for the sanctuary jurisdiction determination. Section 3(d) requires the DHS Secretary and Attorney General to quarterly (1) determine which States and localities are sanctuary jurisdictions and (2) notify each of their sanctuary jurisdiction designation. Additionally, the DHS Secretary and Attorney General must publish on a DHS and DOJ website: (1) a list of sanctuary jurisdictions; (2) the number of detainer requests issued to each sanctuary jurisdiction; and (3) the number of detainer requests ignored or not honored by each sanctuary jurisdiction.

[For more information on Federal, State and Local legislation, visit FAIRus.org.](http://FAIRus.org)

V. The bill clarifies the authority of State and local officials to carry out detainers.

Many sanctuary cities and pro-amnesty advocacy groups have challenged the constitutional authority of ICE detainers (a federal request that State and local jurisdictions hold an alien for a limited time so federal officials can assume custody) as an improper use of State resources for Federal purposes. Section 4(a) eliminates any constitutional concerns by making all State officials who carry out detainers DHS employees for that limited purpose. Section 4(b) removes liability from State and local officials for complying with detainers. However, Section 4(c) waives the immunity for “any person who knowingly violates the civil or constitutional rights of an individual.”

VI. The bill increases penalties for illegal reentry.

Section 5 amends INA Section 276(a) to increase the maximum penalty for illegal reentry by a deported illegal alien from 2 years to 5 years. The bill also revises Section 276(b) to create a 10 year maximum penalty for illegal reentry of an alien “who has been denied admission, excluded, deported, or removed 3 or more times.” Finally, revised Section 276(c) establishes mandatory minimum prison sentences for certain previously removed illegal aliens. Specifically, the bill sets a 5 year mandatory minimum (20 year maximum) for (1) previously deported illegal aliens convicted of aggravated felonies and (2) illegal aliens with two or more previous convictions for illegal reentry.

[For more information on Federal, State and Local legislation, visit FAIRus.org.](http://FAIRus.org)