
HOUSE COMMITTEE AMENDMENTS

2017 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to
Original House Bill No. 135 by Representative Hodges

1 **This document reflects the content of a substitute bill but is not in a bill form; page**
2 **numbers in this document DO NOT correspond to page numbers in the substitute bill**
3 **itself.**

4 To enact Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised
5 of R.S. 49:1401 through 1407, relative to illegal aliens; to prohibit the adoption of
6 sanctuary policies; to provide for duties and requirements of state agencies and
7 political subdivisions; to provide for notice to law enforcement officers; to provide
8 for the authority of the attorney general; to provide definitions; to provide for
9 complaint procedures; to provide for a cause of action; to provide for penalties; to
10 provide for the adoption of rules by the state treasurer; and to provide for related
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950,
14 comprised of R.S. 49:1401 through 1407, is hereby enacted to read as follows:

15 CHAPTER 21. LOUISIANA SANCTUARY CITY

16 PROHIBITION ACT

17 §1401. Short title

18 This Chapter may be cited as the "Louisiana Sanctuary City Prohibition Act."

19 §1402. Definitions

20 (1) "Alien" means a person who is not a United States citizen.

21 (2) "Illegal alien" means an alien who is not lawfully present in the United
22 States, as determined by federal law.

23 (3) "Immigration law" means federal law relating to immigrants or
24 immigration, including the federal Immigration and Nationality Act, 8 U.S.C. 1101
25 et seq.

26 (4) "I.C.E." means the United States Department of Homeland Security's
27 Immigration and Custom Enforcement.

1 (5) "Lawful arrest" means the arrest of an individual by a state or local law
2 enforcement agency for the investigation of a violation of any state law or local
3 ordinance when the individual is neither a victim of, witness to, or reporting a
4 criminal offense.

5 (6) "Sanctuary policy" means any order, ordinance, rule, law, policy,
6 regulation, or guideline, which is formally adopted, that provides for any of the
7 following:

8 (a) Prohibits or discourages cooperation with I.C.E. in the enforcement of
9 federal immigration law.

10 (b) Prohibits or discourages officers from sending, requesting, receiving,
11 maintaining, or exchanging information with I.C.E.

12 (c) Prevents law enforcement officers from asking any suspect, arrestee, or
13 other person under lawful detention for his name, date and place of birth, and
14 immigration status while enforcing or conducting an official investigation into a
15 violation of any state law or local ordinance.

16 §1403. Sanctuary policy prohibition

17 No state agency or political subdivision of the state shall enact or adopt any
18 sanctuary policy or otherwise endorse or enforce a policy which discourages
19 enforcement of federal immigration laws or prohibits a law enforcement officer from
20 communicating or cooperating with federal authorities concerning the immigration
21 status of any person lawfully arrested within the state of Louisiana.

22 §1404. Duty of political subdivisions

23 A. In order to be eligible for state grant funds or general appropriation funds,
24 any political subdivision of this state must certify by affidavit to the division of
25 administration that it is in compliance and shall continue to comply with the
26 provisions of this Chapter regarding cooperation with federal immigration
27 authorities.

28 B. If a political subdivision is found to be in violation of this Chapter by the
29 attorney general and enjoined by a judicial order, the attorney general shall ensure
30 by appropriate means that the state recovers all monies received by the political

1 subdivision from the time it became noncompliant with the provisions of this
2 Chapter.

3 §1406. Notice to officials and law enforcement officers

4 Each sheriff, chief of police, and governing authority of every political
5 subdivision with law enforcement powers and agency head of every state agency
6 with law enforcement powers shall provide each law enforcement officer within its
7 agency or subdivision with a printed copy of the provisions of this Chapter and
8 written notice of his duty to cooperate with federal agencies on matters pertaining
9 to the enforcement of federal immigration laws.

10 §1406. Complaint; notice

11 A. Any person or entity, including the federal government or any member
12 of the state legislature, may file a complaint regarding a violation of this Chapter
13 with the office of the attorney general. The complaint must provide evidence in
14 support of the claim. The complaint must be in writing and in a form and manner as
15 prescribed by the attorney general.

16 B. Upon receiving a complaint, the attorney general shall investigate and
17 determine whether there is a violation of this Chapter. The entity that is the subject
18 of the complaint shall comply with all document requests from the attorney general
19 related to the complaint including but not limited to the entity's written policies
20 related to the complaint.

21 C.(1) If the attorney general determines that a filed complaint is valid and
22 a state agency or political subdivision has a sanctuary policy, the attorney general
23 shall issue an opinion outlining the violation within ten days of the determination.

24 (2) The opinion issued shall serve as notice to the entity and set forth the
25 violations of this Chapter by outlining written findings of fact that describe with
26 specificity the existence and nature of the sanctuary policy.

27 (3) The opinion shall be sent to the head of the agency or political
28 subdivision, the governor, the treasurer, the president of the Senate, the speaker of
29 the House of Representatives, and to each member of the House Committee on
30 Appropriations and the Senate Committee on Finance.

1 (4) Upon notification of a violation of this Chapter by the attorney general,
2 the agency or political subdivision shall have ninety days in which to repeal the
3 sanctuary policy.

4 §1407. Penalties

5 A. If the state agency or political subdivision fails to comply within ninety
6 days of notice as provided in R.S. 49:1406, the attorney general has the authority to
7 take the following actions:

8 (1) The attorney general may file a civil action. If the court finds that the
9 state agency or political subdivision is in violation of this Chapter, it shall enjoin the
10 violation.

11 (2) The attorney general shall give notice of the judicial order enjoining the
12 violation to the governor, the treasurer, the president of the Senate, the speaker of the
13 House of Representatives, and to each member of the House Committee on
14 Appropriations and the Senate Committee on Finance.

15 B. Upon adjudication by the court declaring that a state agency or political
16 subdivision is in violation of this Chapter, the court shall enjoin the unlawful
17 sanctuary policy and order that the state agency or political subdivision pay a civil
18 penalty to the state of an amount not less than one thousand dollars but no more than
19 five thousand dollars for each day the state agency or political subdivision remains
20 noncompliant after the injunction is granted.

21 C. The court shall have continuing jurisdiction over parties and the subject
22 matter and may enforce its orders with imposition of additional civil penalties or
23 contempt of court as provided by law.

24 D. Venue of an action brought pursuant to this Chapter shall be proper in the
25 district court where the governing authority is located.

26 E. In any action commenced by the attorney general pursuant to this Chapter,
27 the prevailing party may recover reasonable expenses, including court costs,
28 reasonable attorney fees, investigative costs, witness fees, and deposition costs.

29 F. The state treasurer shall adopt rules and regulations necessary to
30 implement the penalties provided in this Chapter and ensure that the penalty is not

1 imposed on any state agency or political subdivision not named in the attorney
 2 general opinion and judicial order.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 135 Original

2017 Regular Session Administration of Criminal Justice

Abstract: Prohibits state agencies and political subdivisions from enacting or adopting certain policies with respect to immigration enforcement.

Proposed law defines "sanctuary policy" as any order, ordinance, rule, law, policy, regulation or guideline, formally adopted, that provides for any of the following:

- (1) Prohibits or discourages cooperation with I.C.E. in the enforcement of federal immigration law.
- (2) Prohibits or discourages officers from sending, requesting, receiving, maintaining, or exchanging information with I.C.E.
- (3) Prevents law enforcement officers from asking any suspect, arrestee, or other person under lawful detention for his name, date and place of birth, and immigration status while enforcing or conducting an official investigation into a violation of any state law or local ordinance.

Proposed law prohibits a state agency or political subdivision from adopting a sanctuary policy. Proposed law further provides that any state agency or political subdivision that enacts or adopts a sanctuary policy will be subject to the provisions of proposed law.

Proposed law provides that a political subdivision must certify to the division of administration by affidavit that it is in compliance with the provisions of proposed law and federal immigration laws in order to be eligible for state grant funds or general appropriation funds. If the political subdivision is found not to be in compliance with proposed law by the attorney general and enjoined by a judicial order, the attorney general shall ensure that the state recovers all monies received by the state agency or political subdivision from the time it became noncompliant with proposed law.

Proposed law requires each sheriff, chief of police, and governing authority of every political subdivision with law enforcement powers and agency head of every state agency with law enforcement powers to provide each law enforcement officer within its agency or subdivision with a printed copy of the provisions of proposed law and with written notice of the law enforcement officer's duty to cooperate.

Proposed law allows any person or entity, including the federal government or member of the state legislature, to file a written complaint with the attorney general and requires them to provide evidence regarding a violation of proposed law. Proposed law further provides that the state agency or political subdivision must comply with document requests from the attorney general related to the complaint.

Proposed law provides that if the attorney general determines that the state agency or political subdivision has a sanctuary policy, the attorney general shall issue an opinion outlining the violation within 10 days of the determination and shall send the opinion to the head of the state agency or political subdivision, the governor, the treasurer, speaker of the

House, president of the Senate, and each member of the House Committee on Appropriations and the Senate Committee on Finance.

Proposed law requires that upon notification by the attorney general of a violation of proposed law, the state agency or political subdivision has 90 days to repeal the sanctuary policy and failure to do so allows the attorney general to file action for declaratory and injunctive relief against the state agency or political subdivision in violation of proposed law.

Proposed law states that upon adjudication by the court declaring that a state agency or political subdivision is in violation of proposed law, the court shall enjoin the sanctuary policy and order civil penalties to the state between \$1,000-\$5,000 for each day that the state agency or political subdivision remains noncompliant with proposed law after the injunction is granted.

Proposed law allows the prevailing party to recover reasonable expenses, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

Proposed law requires that the treasurer adopt rules to implement the proposed law penalties.

(Adds R.S. 49:1401-1407)