

2024 Regular Session

SENATE BILL NO. 208

BY SENATOR MIGUEZ

INTERNATIONAL AFFAIRS. Provides for sanctuary policies. (gov sig)

1 AN ACT

2 To enact Part III of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 33:81 through 85, relative to sanctuary policies for illegal
4 immigration; to provide with respect to prohibition on sanctuary policies; to provide
5 relative to local governments' required cooperation with federal immigration
6 authorities; to provide relative to duties related to immigration detainers; to provide
7 relative to enforcement; to provide for definitions; to provide for an effective date;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part III of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 33:81 through 85, is hereby enacted to read as follows:

12 **PART III. PROHIBITION ON SANCTUARY POLICIES FOR**

13 **ILLEGAL IMMIGRATION**

14 **§81. Definitions**

15 **For the purposes of this Part, the following words and terms shall have**
16 **the meaning indicated unless the context clearly indicates differently:**

17 **(1) "Federal immigration agency" means either the United States**

1 Department of Justice or the United States Department of Homeland Security,
2 a division within either agency, including but not limited to United States
3 Immigration and Customs Enforcement and United States Customs and Border
4 Protection, any successor agency, and any other federal agency charged with the
5 enforcement of immigration law.

6 (2)(a) "Immigration detainer" means a facially sufficient written or
7 electronic request issued by a federal immigration agency using that agency's
8 official form to request that another law enforcement agency detain a person
9 based on probable cause to believe that the person to be detained is a removable
10 alien under federal immigration law, including but not limited to detainers
11 issued pursuant to 8 U.S.C. 1226 and 1357 along with a warrant described in
12 Item (b)(iii) of this Paragraph.

13 (b) For purposes of this Part, an immigration detainer is deemed facially
14 sufficient if any of the following circumstances apply:

15 (i) The federal immigration agency's official form is complete and
16 indicates on its face that the federal immigration official has probable cause to
17 believe that the person to be detained is a removable alien under federal
18 immigration law.

19 (ii) The federal immigration agency's official form is incomplete and fails
20 to indicate on its face that the federal immigration official has probable cause
21 to believe that the person to be detained is a removable alien under federal
22 immigration law, but is supported by an affidavit, order, or other official
23 documentation that indicates that the federal immigration agency has probable
24 cause to believe that the person to be detained is a removable alien under
25 federal immigration law.

26 (iii) The federal immigration agency supplies with its detention request
27 a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of
28 Removal/Deportation or a successor warrant or other warrant authorized by
29 federal law.

1 **(3) "Detainee" means an alien in the custody of a law enforcement**
2 **agency.**

3 **(4) "Law enforcement agency" means an agency in this state charged**
4 **with enforcement of state, parish, municipal, or federal laws or with managing**
5 **custody of detained aliens in this state and includes municipal police**
6 **departments, sheriff's offices, state police offices, state university and college**
7 **police departments, parish correctional agencies, and the Department of Public**
8 **Safety and Corrections.**

9 **(5) "Local governmental entity" means any parish, municipality, or**
10 **other political subdivision of this state.**

11 **(6) "Sanctuary policy" means a law, policy, practice, procedure, or**
12 **custom adopted or allowed by a state entity or local governmental entity which**
13 **prohibits or impedes a law enforcement agency from complying with 8 U.S.C.**
14 **1373 or which prohibits or impedes a law enforcement agency from**
15 **communicating or cooperating with a federal immigration agency so as to limit**
16 **that law enforcement agency in, or prohibit the agency from any of the**
17 **following:**

18 **(a) Complying with an immigration detainer.**

19 **(b) Complying with a request from a federal immigration agency to**
20 **notify the agency before the release of a detainee in the custody of the law**
21 **enforcement agency.**

22 **(c) Providing a federal immigration agency access to a detainee for**
23 **interview.**

24 **(d) Participating in any program or agreement authorized under 8**
25 **U.S.C. 1357.**

26 **(e) Providing a federal immigration agency with a detainee's**
27 **incarceration status or release date.**

28 **(7) "State entity" means the state or any office, board, bureau,**
29 **commission, department, branch, division, or institution thereof, including state**

1 public colleges and universities.

2 §82. Sanctuary policies prohibited

3 A state entity, law enforcement agency, or local governmental entity may
4 not adopt or have in effect a sanctuary policy.

5 §83. Cooperation; federal immigration authorities

6 A. A law enforcement agency shall use best efforts to support the
7 enforcement of federal immigration law. This Section applies to an official,
8 representative, agent, or employee of the entity or agency only when he is acting
9 within the scope of his official duties or within the scope of his employment.

10 B. For purposes of this Part, a state entity, local governmental entity, or
11 law enforcement agency, or an employee, an agent, or a representative of the
12 entity or agency shall not prohibit or in any way restrict a law enforcement
13 agency from taking any of the following actions with respect to information
14 regarding an alien's immigration status, except as otherwise expressly
15 prohibited by federal law:

16 (1) Sending the information to or requesting, receiving, or reviewing the
17 information from a federal immigration agency.

18 (2) Recording and maintaining the information.

19 (3) Exchanging the information with a federal immigration agency or
20 another state entity, local governmental entity, or law enforcement agency.

21 (4) Using the information to comply with an immigration detainer.

22 (5) Using the information to confirm the identity of a detainee by a law
23 enforcement agency.

24 C. For purposes of this Section, the term "applicable criminal case"
25 means a criminal case in which all of the following occur:

26 (1) The judgment requires the defendant alien to be confined in a secure
27 correctional facility.

28 (2) The judge indicates in the record that the defendant alien is subject
29 to an immigration detainer or otherwise indicates in the record that the

1 defendant alien is subject to a transfer into federal custody.

2 D. In an applicable criminal case, when the judge sentences a defendant
3 alien who is the subject of an immigration detainer to confinement, the judge
4 shall issue an order requiring the secure correctional facility in which the
5 defendant alien shall be confined to reduce the defendant alien's sentence by a
6 period of not more than twelve days on the facility's determination that the
7 reduction in sentence will facilitate the seamless transfer of the defendant alien
8 into federal custody.

9 E. If the information specified in Subsection B of this Section is not
10 available at the time the sentence is pronounced in the case, but is received by
11 a law enforcement agency afterwards, the law enforcement agency shall notify
12 the judge who shall issue the order described by Subsection D of this Section as
13 soon as the information becomes available.

14 F. A state entity, local governmental entity, or law enforcement agency
15 that, pursuant to Subsection H of this Section, withholds information regarding
16 the immigration information of a victim or witness to a criminal offense shall
17 document the victim's or witness's cooperation in the entity's or agency's
18 investigative records related to the offense and shall retain the records for at
19 least ten years for the purpose of audit, verification, or inspection by the
20 legislative auditor.

21 G. When a parish correctional facility or the Department of Public
22 Safety and Corrections receives verification from a federal immigration agency
23 that a detainee subject to an immigration detainer is in the law enforcement
24 agency's custody, the agency may securely transport the detainee to a federal
25 facility in this state or to another point of transfer to federal custody outside the
26 jurisdiction of the law enforcement agency. The law enforcement agency may
27 transfer a detainee who is subject to an immigration detainer and is confined
28 in a secure correctional facility to the custody of a federal immigration agency
29 not earlier than twelve days before his release date. A law enforcement agency

1 shall obtain judicial authorization before securely transporting the detainee to
2 a point of transfer outside of this state.

3 H. This Section shall not require a state entity, local governmental entity,
4 or law enforcement agency to provide a federal immigration agency with
5 information related to a victim or a witness to a criminal offense if the victim
6 or witness timely and in good faith responds to the entity's or agency's request
7 for information and cooperation in the investigation or prosecution of the
8 offense.

9 I. This Section shall not authorize a law enforcement agency to detain an
10 alien unlawfully present in the United States pursuant to an immigration
11 detainer solely because the alien witnessed or reported a crime or was a victim
12 of a criminal offense.

13 J. This Section shall not apply to any alien unlawfully present in the
14 United States if he is or has been a necessary witness or victim of a crime of
15 domestic violence, rape, sexual exploitation, sexual assault, murder,
16 manslaughter, assault, battery, human trafficking, kidnapping, false
17 imprisonment, involuntary servitude, fraud in foreign labor contracting,
18 blackmail, extortion, or witness tampering.

19 §84. Duties; immigration detainers

20 A. A law enforcement agency that has custody of a detainee subject to an
21 immigration detainer issued by a federal immigration agency shall perform all
22 of the following:

23 (1) Provide to the judge authorized to grant or deny the detainee's
24 release on bail notice that the detainee is subject to an immigration detainer.

25 (2) Record in the detainee's case file that the detainee is subject to an
26 immigration detainer and comply with the requests made in the immigration
27 detainer.

28 B. A law enforcement agency shall not be required to perform a duty
29 imposed by this Section with respect to a detainee who is transferred to the

1 custody of the agency by another law enforcement agency if the transferring
2 agency performed that duty prior to the transfer.

3 C. A judge who receives notice that a detainee is subject to an
4 immigration detainer shall cause the fact to be recorded in the court record,
5 regardless of whether the notice is received before or after a judgment in the
6 case.

7 D. Each parish correctional facility shall enter into an agreement or
8 agreements with a federal immigration agency for temporarily housing
9 detainees who are the subject of immigration detainers and for the payment of
10 the costs of housing and detaining those detainees. A compliant agreement may
11 include any contract between a correctional facility and a federal immigration
12 agency for housing or detaining detainees subject to immigration detainers,
13 such as basic ordering agreements in effect on or after July 1, 2019, agreements
14 authorized by 8 U.S.C. 1357, or successor agreements and other similar
15 agreements authorized by federal law.

16 §85. Enforcement

17 A. The attorney general, in consultation with the governor, may file suit
18 against a local governmental entity or local law enforcement agency in the
19 Nineteenth Judicial District for declaratory or injunctive relief for a violation
20 of this Part.

21 B. If a local governmental entity or local law enforcement agency is
22 found by the trial court to have violated this Part, the court shall enjoin the
23 unlawful sanctuary policy. The court shall have continuing jurisdiction over the
24 parties and subject matter and may enforce its orders with the initiation of
25 contempt proceedings as provided by law.

26 C. An order approving a consent decree or granting an injunction shall
27 include written findings of fact that describe with specificity the existence and
28 nature of the sanctuary policy that violates this Part.

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

SB 208 Reengrossed

2024 Regular Session

Miguez

Proposed law provides definitions for the following terms: "federal immigration agency", "immigration detainer", "detainee", "law enforcement agency", "local governmental entity", "sanctuary policy", and "state entity".

Proposed law prohibits a state entity, law enforcement agency, or local governmental entity from adopting an illegal alien sanctuary policy.

Proposed law requires law enforcement agencies in this state to cooperate with federal immigration authorities and use best efforts to support the enforcement of federal immigration law.

Proposed law prohibits a state entity, law enforcement agency, or local government entity from restricting a law enforcement agency from exchanging information with a federal immigration agency or another governmental or law enforcement agency for the purposes of proposed law.

Proposed law requires law enforcement agencies that have custody of a detainee illegal alien subject to an immigration detainer issued by a federal immigration agency to perform the following:

- (1) Provide to the judge authorized to grant or deny the detainee's release on bail notice that the detainee is subject to an immigration detainer.
- (2) Record in the detainee's case file that the detainee is subject to an immigration detainer and comply with the requests made in the immigration detainer.

Proposed law requires a judge who receives notice that a detainee is subject to an immigration detainer to record the fact in the court record, regardless of whether the notice is received before or after a judgment in the case.

Proposed law requires each parish correctional facility to enter into an agreement or agreements with a federal immigration agency for temporarily housing detainees who are the subject of immigration detainers and for the payment of the costs of housing and detaining those detainees.

Proposed law authorizes the attorney general, in consultation with the governor, to file suit against a local governmental entity or local law enforcement agency in the 19th JDC for declaratory or injunctive relief for a violation of proposed law.

Proposed law provides that if the local governmental entity or local law enforcement agency is found by a trial court to have violated proposed law, proposed law requires the court to enjoin the unlawful sanctuary policy practiced by any local governmental entity or local law enforcement agency.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 33:81-85)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Removes provision authorizing the governor to initiate judicial proceedings against an executive or administrative state, parish, or municipal officer that violates proposed law.
3. Adds requirement for the attorney general to consult with the governor prior to filing suit against a local governmental entity or local law enforcement agency for violation of proposed law.
4. Clarifies that a trial court is required to find the local governmental entity or local law enforcement agency to have violated proposed law prior to enjoining any unlawful sanctuary policy.
5. Removes provision authorizing the governor to suspend any state funding to the local governmental entity or local law enforcement agency he finds to have violated proposed law prior to a court enjoining any unlawful sanctuary policy.