

2016 Regular Session

HOUSE BILL NO. 1148 (Substitute for House Bill No. 151 by Representative Hodges)

BY REPRESENTATIVES HODGES, HAZEL, MIKE JOHNSON, AND JAY MORRIS

ALIENS/ILLEGAL: Prohibits sanctuary policies

1 AN ACT

2 To enact R.S. 39:1405.5 and Chapter 21 of Title 49 of the Louisiana Revised Statutes of
3 1950, comprised of R.S. 49:1401 through 1405, relative to illegal aliens; to prohibit
4 the adoption of sanctuary policies; to provide duties and requirements; to provide
5 definitions; to provide sanctions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950,
8 comprised of R.S. 49:1401 through 1405, is hereby enacted to read as follows:

9 CHAPTER 21. ILLEGAL ALIEN SANCTUARY POLICY

10 PROHIBITION ACT

11 PART I. GENERAL PROVISIONS

12 §1401. Title

13 This Chapter may be cited as the "Illegal Alien Sanctuary Policy Prohibition
14 Act".

15 §1402. Definitions

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

17 (2) "Illegal alien" means an alien who is not legally present in the United
18 States.

19 (3) "Sanctuary policy" means any order, ordinance, rule, law, law
20 enforcement policy, or guideline, whether formally or informally adopted, that
21 provides for any of the following:

1 (a) Limits or prohibits any state agency, department, or office, or a state or
2 local political subdivision official or employee from communicating or cooperating
3 with federal agencies or officials to verify or report the immigration status of an
4 illegal alien.

5 (b) Grants to illegal aliens the right of lawful presence or status in violation
6 of federal law.

7 (c) Violates any provision of 8 U.S.C. 1373.

8 (d) Restricts or imposes any conditions upon the cooperation or compliance
9 of a state agency, department, or office or state or local political subdivision
10 including detainers or other requests from United States Immigration and Customs
11 Enforcement to maintain custody of any illegal alien or to transfer any illegal alien
12 to the custody of United States Immigration and Customs Enforcement.

13 (e) Requires United States Immigration and Customs Enforcement to obtain
14 a warrant or demonstrate probable cause before complying with detainers or other
15 requests to maintain custody of any illegal alien or to transfer any illegal alien to the
16 custody of United States Immigration and Customs Enforcement.

17 (f) Prevents law enforcement officers of a state or local political subdivision
18 from asking any suspect, arrestee, or other person in custody his citizenship or
19 immigration status.

20 §1403. Sanctuary policy prohibition; state or local political subdivisions; sanctions

21 A. No state or local political subdivision shall enact or adopt any sanctuary
22 policy.

23 B. Notwithstanding any other provision of law to the contrary, any state or
24 local political subdivision that enacts or adopts a sanctuary policy shall be subject
25 to the provisions of R.S. 39:1405.5 and R.S. 49:1404, as applicable.

26 C. The governing authority, sheriff, or chief of police of each political
27 subdivision shall provide each law enforcement officer with a printed copy of the
28 provisions of this Chapter and with written notice of the duty to cooperate with state

1 and federal agencies and officials on matters pertaining to enforcement of state and
2 federal laws governing immigration pursuant to the provisions of this Chapter.

3 §1404. Sanctuary policy prohibition; state agencies, departments, and offices;
4 sanctions

5 A. No state agency, department, or office shall enact or adopt any sanctuary
6 policy.

7 B. No funds from the treasury shall be expended to fund the implementation
8 or enforcement of a sanctuary policy.

9 C. If a state department, agency, or office violates the provisions of this
10 Section, the attorney general shall send written notice of the violation to the Joint
11 Legislative Committee on the Budget. The Joint Legislative Committee on the
12 Budget shall conduct a hearing to determine whether appropriations to the state
13 department, agency, or officer should be otherwise restricted or conditioned on
14 compliance with the provisions of this Chapter.

15 D. Every state agency, department, or office with law enforcement powers
16 shall provide each law enforcement officer with a printed copy of the provisions of
17 this Chapter and with written notice of the duty to cooperate with state and federal
18 agencies and officials on matters pertaining to enforcement of state and federal laws
19 governing immigration pursuant to the provisions of this Chapter.

20 §1405. Attorney general; duties; notices

21 A.(1) The attorney general, on his own accord, or upon receiving a complaint
22 from any resident of the state of Louisiana regarding a violation of the provisions
23 of this Chapter, shall issue an opinion and notice pursuant to R.S. 49:1403 and 1404.

24 (2) If the attorney general issues an opinion and notice that a state or local
25 political subdivision is in violation of the provisions of this Chapter, he shall send
26 the opinion and notice of violation to that particular state or local political
27 subdivision and to the treasurer and the State Bond Commission as provided in R.S.
28 39:1405.5.

1 (3) If the attorney general issues an opinion and notice pursuant to the
2 provisions of this Section regarding any state department, agency, or office, he shall
3 send it to the head of the state department, agency, or office, the governor, the
4 president of the Senate, the speaker of the House of Representatives and to each
5 member of the House Committee on Appropriations and the Senate Committee on
6 Finance pursuant to R.S. 49:1404.

7 B. When the attorney general issues an opinion pursuant to the provisions
8 of this Chapter, the opinion shall set forth the violations of this Chapter outlining
9 written findings of fact that describe with specificity the existence and nature of the
10 sanctuary policy.

11 Section 2. R.S. 39:1405.5 is hereby enacted to read as follows:

12 §1405.5. Sanctuary policy; prohibitions on approval of bonds

13 A. When a state or local political subdivision has enacted a sanctuary policy
14 as prohibited by the provisions of the "Illegal Alien Sanctuary Policy Prohibition
15 Act", provided for in Chapter 21 of Title 49 of the Louisiana Revised Statutes of
16 1950, the political subdivision shall be subject to the provisions of Subsection B of
17 this Section.

18 B. Notwithstanding any other provision of law to the contrary, bonds, notes,
19 or other evidence of indebtedness of any political subdivision that is required by the
20 constitution or laws of Louisiana to be approved by the State Bond Commission,
21 shall not be approved by the State Bond Commission if the state or local political
22 subdivision has received notice of violation pursuant to this Chapter and such notice
23 was provided by the attorney general to the treasurer and State Bond Commission,
24 unless the political subdivision has obtained written confirmation that the notice is
25 withdrawn as provided in Subsection D of this Section.

26 C. Once the treasurer receives a notice of a violation pursuant to Chapter 21
27 of Title 49 of the Louisiana Revised Statutes of 1950 and the notice was provided to
28 the attorney general and State Bond Commission, the treasurer shall be prohibited
29 from including a request by a state or local political subdivision for any bonds, notes,

1 or other evidence of indebtedness on any agenda of the State Bond Commission,
2 until the sanctuary policy has been withdrawn pursuant to Paragraph (D)(2) of this
3 Section.

4 D.(1) The notice of violation provided to the State Bond Commission shall
5 be stamped "received" by the State Bond Commission indicating the date which the
6 State Bond Commission received notice pursuant to the provisions of this Section.

7 (2) The notice of violation shall remain on file with the State Bond
8 Commission until withdrawn, and shall be withdrawn under either of the following
9 circumstances:

10 (a) The attorney general issues a second opinion and a written confirmation
11 declaring that the state or local political subdivision has reformed its policies and
12 no longer has a sanctuary policy.

13 (b) The state or local political subdivision provides sufficient evidence to the
14 State Bond Commission that the sanctuary policy has been repealed and is no longer
15 in effect.

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 1148 Engrossed

2016 Regular Session

Hodges

Abstract: Prohibits state departments, agencies, and offices and state or local political subdivisions from developing certain policies with respect to immigration enforcement.

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

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

- (1) Limits or prohibits any state department, agency, or office or any state or local political subdivision from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien within that state agency or political subdivision.

- (2) Grants to illegal aliens the right of lawful presence or status in violation of federal law.
- (3) Violates federal immigration law.
- (4) Restricts or imposes any conditions upon the state department, agency, or office or any state or local political subdivision's cooperation or compliance with detainers or other requests from U.S. Immigration and Customs Enforcement.
- (5) Requires U.S. Immigration and Customs Enforcement to obtain a warrant or demonstrate probable cause before complying with detainers or other requests to maintain custody of any illegal alien or to transfer any illegal alien.
- (6) Prevents the state or local political subdivision's law enforcement officers from asking any suspect, arrestee, or other person in custody about his citizenship or immigration status.

Proposed law allows the attorney general, on his own accord or upon the receipt of a complaint from any Louisiana resident regarding a violation of proposed law, to issue an opinion outlining written findings of fact that describe with specificity the existence and nature of the sanctuary policy and notice of violation.

Proposed law provides that no state funds from the treasury shall be expended to fund the implementation or enforcement of a sanctuary policy of a state department, agency, or office.

Proposed law provides that if there is a violation by the a state department, agency, or office, the attorney general shall send notice to the Joint Legislative Committee on the Budget, which shall conduct an oversight hearing to determine if appropriations of the state department, agency, or office shall be restricted. Proposed law further provides that if the violation is by a state department, agency, or office, the opinion and notice will be sent to the department, agency, or office head, the governor, president of the Senate, speaker of the House of Representatives, and to each member of the House Committee on Appropriations and the Senate Committee on Finance.

Proposed law provides that if the violation is by a state or local political subdivision, the opinion and notice will be sent to the treasurer and the State Bond Commission. Once the treasurer receives a notice of violation, the treasurer shall deny any request for bonds, notes, or other evidence of indebtedness until the sanctuary policy has been withdrawn.

Proposed law allows notice of violation to be withdrawn when the attorney general issues a second opinion and written confirmation or the State Bond Commission is provided with sufficient evidence that the sanctuary policy is no longer in effect.

Proposed law requires the governing authority, sheriff, or chief of police of each state or local political subdivision or state department, agency, or office to provide each law enforcement officer with a printed copy of the provisions of proposed law and with written notice of his duties to cooperate.

(Adds R.S. 39:1405.5 and R.S. 49:1401-1405)