

2017 Regular Session

HOUSE BILL NO. 676 (Substitute for House Bill No. 135 by Representative Hodges)

BY REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ALIENS/ILLEGAL: Prohibits sanctuary policies

1 AN ACT

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

10 Be it enacted by the Legislature of Louisiana:

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

13 CHAPTER 21. LOUISIANA SANCTUARY CITY

14 PROHIBITION ACT

15 §1401. Short title

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

17 §1402. Definitions

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

19 (2) "Illegal alien" means an alien who is not lawfully present in the United

20 States, as determined by federal law.

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

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

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

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

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

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

17 (c) Prevents law enforcement officers from asking any person under lawful
18 arrest for his or her name, date and place of birth, and immigration status while
19 enforcing or conducting an official investigation into a violation of any state law or
20 local ordinance.

21 §1403. Sanctuary policy prohibition

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

27 §1404. Duty of political subdivisions

28 A. On or before January 1, 2018, and on or before January 1 of each year
29 thereafter, in order to be eligible for state grant funds or general appropriation funds,

1 any political subdivision of the state must certify by affidavit to the division of
2 administration that it is in compliance and shall continue to comply with the
3 provisions of this Chapter regarding cooperation with federal immigration
4 authorities.

5 B. If a political subdivision is found to be in violation of this Chapter by the
6 attorney general and enjoined by a judicial order, the attorney general shall ensure
7 by appropriate means that the state recovers any state grant funds or general
8 appropriation funds received by the political subdivision from the time it became
9 noncompliant with the provisions of this Chapter.

10 §1405. Notice to officials and law enforcement officers

11 Each sheriff, chief of police, governing authority of a political subdivision
12 with law enforcement powers, and agency head of a state agency with law
13 enforcement powers shall provide each law enforcement officer within its agency or
14 subdivision with a printed copy of the provisions of this Chapter and written notice
15 of the duty to cooperate with federal agencies on matters pertaining to the
16 enforcement of federal immigration laws.

17 §1406. Complaint; notice

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

23 B. Upon receiving a complaint, the attorney general shall investigate and
24 determine whether there is a violation of this Chapter. The state agency or political
25 subdivision of the state that is the subject of the complaint shall comply with all
26 document requests from the attorney general related to the complaint including but
27 not limited to the state agency's or political subdivision's written policies related to
28 the complaint.

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

4 (2) The opinion issued shall serve as notice to the state agency or political
5 subdivision and set forth the violations of this Chapter by outlining written findings
6 of fact that describe with specificity the existence and nature of the sanctuary policy.

7 (3) The opinion shall be sent to the head of the agency or political
8 subdivision, the governor, the treasurer, the president of the Senate, the speaker of
9 the House of Representatives, and to each member of the Joint Legislative
10 Committee on the Budget.

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

14 §1407. Penalties

15 A.(1) If the state agency or political subdivision fails to comply within ninety
16 days of notice as provided in R.S. 49:1406, the attorney general may file a civil
17 action. If the court finds that the state agency or political subdivision is in violation
18 of this Chapter, it shall enjoin the unlawful sanctuary policy. The entity shall be
19 ineligible for state grant funds or general appropriation funds beginning the
20 following fiscal year.

21 (2) The attorney general shall give notice of the judicial order enjoining the
22 unlawful sanctuary policy to the state agency or political subdivision named in the
23 order and to the governor, the treasurer, the president of the Senate, the speaker of
24 the House of Representatives, and to each member of the Joint Legislative
25 Committee on the Budget.

26 (3) The ineligibility for state grant funds and general appropriation funds as
27 provided by Paragraph (1) of this Subsection shall remain in effect until the attorney
28 general issues an opinion declaring that the state agency or political subdivision no
29 longer has an unlawful sanctuary policy and notice of such opinion is sent to the

1 governor, the treasurer, the president of the Senate, the speaker of the House of
2 Representatives, and to each member of the Joint Legislative Committee on the
3 Budget.

4 B. The court shall have continuing jurisdiction over parties and the subject
5 matter and may enforce its orders with contempt of court as provided by law or take
6 any other action within the jurisdiction of the court to ensure compliance.

7 C. Venue of an action brought pursuant to this Chapter shall be proper in the
8 district court where the governing authority is located.

9 D. In any action commenced by the attorney general pursuant to this
10 Chapter, the prevailing party may recover reasonable expenses, including court costs,
11 reasonable attorney fees, investigative costs, witness fees, and deposition costs.

12 E. The state treasurer shall adopt rules and regulations necessary to
13 implement this Chapter and ensure that the ineligibility to receive any state grant
14 funds and general appropriation funds is not imposed on any state agency or political
15 subdivision not named in the attorney 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 676 Reengrossed

2017 Regular Session

Hodges

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 Immigration and Customs Enforcement "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 person under lawful arrest for his or her 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 on or before Jan. 1, 2018, and on or before Jan. 1 of each year thereafter, a political subdivision shall certify to the division of administration by affidavit that it is in compliance with the provisions of proposed law regarding cooperation with 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 is subsequently enjoined by a judicial order pursuant to proposed law, the attorney general shall ensure that the state recovers any state grant funds and general appropriation funds received by the political subdivision from the time it became noncompliant with proposed law.

Proposed law requires each sheriff, chief of police, governing authority of a political subdivision with law enforcement powers, and agency head of a 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 with federal agencies on matters pertaining to the enforcement of federal immigration laws.

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, after investigating the complaint, 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 Joint Legislative Committee on the Budget.

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 shall provide notice of the court's order to state agency or political subdivision named in the order, the governor, treasurer, speaker of the House, president of the Senate, and each member of the Joint Legislative committee on the Budget.

Proposed law further provides that the state agency or political subdivision subject to the court's order enjoining the unlawful sanctuary policy shall be ineligible to receive state grant funds or general appropriation funds beginning the following fiscal year. This ineligibility continues until the attorney general issues an opinion declaring that the state agency or political subdivision no longer has an unlawful sanctuary policy and sends notice to the governor, treasurer, president of the Senate, speaker of the House, and each member of the Joint Legislative Committee on the Budget.

Proposed law provides that proper venue is in the district court where the governing authority is located and provides the court with continuing jurisdiction over the parties and

the subject matter and may enforce its orders with contempt of court or take any other action within the jurisdiction of the court to ensure compliance.

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 and to ensure that the ineligibility to receive state grant funds or general appropriation funds is not imposed any state agency or political subdivision not named in the attorney general opinion and judicial order.

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

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove from the definition of "sanctuary policy" policies that prevent law enforcement officers from asking certain questions of any suspect or other person under lawful detention.
2. Amend the proposed law provision that requires a political subdivision of the state to certify its compliance with proposed law to require the submission of such certification on or before Jan. 1 of each year beginning on Jan. 1, 2018.
3. Specify that the monies that are able to be recovered by the attorney general from a political subdivision found to be in violation of proposed law and enjoined by judicial order includes state grand funds and general appropriation funds.
4. Clarify that those entities that are required to receive a printed copy of the provisions of proposed law and written notice of the duty to cooperate with federal agencies on matters pertaining to the enforcement of federal immigration laws include each sheriff, chief of police, governing authority of a political subdivision with law enforcement powers, and agency head of a state agency with law enforcement powers.
5. Replace "House Committee on Appropriation and Senate Committee on Finance" with "Joint Legislative Committee on the Budget" with respect to those entities required to receive notice of the attorney general's opinions and courts' orders enjoining unlawful sanctuary policies.
6. Provide that if the court enjoins the unlawful sanctuary policy, the entity subject to the court's order shall be ineligible to receive state grand funds or general appropriation funds beginning the following fiscal year and shall continue until the attorney general issues a subsequent opinion and sends notice to the required entities that the entity no longer has an unlawful sanctuary policy.
7. Remove proposed law provisions that would have authorized the court to order the payment of a civil penalty of \$1,000 to \$5,000 a day by the state agency or political subdivision that is subject to the court's order enjoining an unlawful sanctuary policy.
8. Authorize the court that ordered the injunction against the state agency or political subdivision to take any other action within its jurisdiction to ensure compliance with proposed law.

9. Amend the purposes for which the state treasurer is authorized to adopt rules and regulations to include rules and regulations that ensure that the ineligibility to receive state grant funds or general appropriation funds is not imposed upon a state agency or political subdivision not named in the attorney general's opinion and judicial order.
10. Make technical corrections.