

2016 Regular Session

HOUSE BILL NO. 453

BY REPRESENTATIVE JAY MORRIS

ALIENS/ILLEGAL: Provides relative to the role of local governments with respect to immigration enforcement

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 1403, relative to immigration; to provide relative to the
4 authority of local governmental subdivisions; to provide for restrictions; to provide
5 relative to law enforcement duties; to provide for a cause of action; to provide for
6 damages and sanctions; to provide for standing; to provide for venue; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 49:1401 through 1403, is hereby enacted to read as follows:

11 §1401. Immigration status of individuals; restrictions on local government

12 A. No governing authority or official of a local governmental subdivision
13 may adopt or enforce any ordinance, policy, or regulation that does any of the
14 following or requires a law enforcement agency to adopt a policy that does any of
15 the following:

16 (1) Prohibits a peace officer or other local officer, official, or employee from
17 communicating or cooperating with federal immigration officials concerning the
18 immigration status of an individual in this state.

19 (2) Limits any investigation by a peace officer into the immigration status
20 of a person with whom he comes into contact.

1 (3) Declines to honor a request made by federal immigration officials to hold
2 a person in custody until federal immigration officials assume custody of the person.

3 B. A peace officer who has probable cause to believe that an individual who
4 is under arrest is not legally present in the United States shall report that individual
5 to the United States Immigration and Customs Enforcement office.

6 §1402. Suit for damages; mandamus

7 A. A governing authority or an official of a local governmental subdivision
8 who violates the provisions of R.S. 49:1401(A), or a law enforcement agency whose
9 peace officer violates the provisions of R.S. 49:1401(B), shall be liable to any person
10 who is legally in the United States and who suffers injury, death, or other damages,
11 including all costs and reasonable attorney fees, which are caused by a person who
12 was not detained or held in custody due to an ordinance, policy, or regulation
13 adopted or enforced in contravention of the provisions of this Section.

14 B.(1) Any citizen residing in the jurisdiction of a governing authority which
15 violates the provisions of this Section shall have standing to bring a petition for a
16 writ of mandamus directing the governing authority to comply with the provisions
17 of this Section. If the court grants the writ of mandamus as provided in Paragraph
18 (2) of this Subsection, the citizen bringing the petition is entitled to recover all costs
19 and reasonable attorney fees.

20 (2) If the court grants the writ of mandamus directing the governing
21 authority to comply with the provisions of this Section and the governing authority
22 continues to refuse or fail to comply with the provisions of this Section, no state
23 general funds or any other state funds shall be appropriated to or for the benefit of
24 the governing authority until the governing authority is in compliance with the
25 provisions of this Section.

26 (3) Venue of an action brought pursuant to this Subsection shall be proper
27 in district court where the governing authority is located or in the Nineteenth Judicial
28 District Court in the parish of East Baton Rouge.

1 §1403. Purpose

2 The provisions of this Section are intended to provide for the safety and
3 welfare of the citizens of this state, and refusal or failure of the governing authority
4 of a local governmental subdivision, or law enforcement agency, to comply with the
5 provisions of this Section shall be deemed to be a violation of the police powers of
6 the state as provided in Article I, Section 1 and Article VI, Section 9 of the Louisiana
7 Constitution.

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 453 Original

2016 Regular Session

Jay Morris

Abstract: Provides for the cooperation of local governing authorities and law enforcement agencies in the enforcement of federal immigration laws and provides for remedies for failure to do so.

Proposed law prohibits local governing authorities and officials from adopting or enforcing the following types of ordinances:

- (1) Prohibits local officers, officials, and employees from communicating or cooperating with federal immigration officials.
- (2) Limits law enforcement investigations into a person's immigration status.
- (3) Declines to honor a request by federal immigration officials to hold a person in custody until federal officials can assume custody.

Proposed law adds an affirmative duty for peace officers who have probable cause to believe that a person under arrest is not legally present shall report that person to the U.S. Immigration and Customs Enforcement office.

Proposed law provides for a cause of action for injuries caused by a person who should have been detained for his immigration status, but was not in violation of proposed law. Provides for the award of damages, including attorney fees and costs. Provides that certain citizens may petition for a writ of mandamus, and provides for the recovery of attorney fees and fiscal sanctions.

(Adds R.S. 49:1401-1403)