

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 Custom 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 suspect, arrestee, or  
18           other person under lawful detention for his name, date and place of birth, and  
19           immigration status while enforcing or conducting an official investigation into a  
20           violation of any state law or 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. In order to be eligible for state grant funds or general appropriation funds,  
29           any political subdivision of the state must certify by affidavit to the division of

1 administration that it is in compliance and shall continue to comply with the  
2 provisions of this Chapter regarding cooperation with federal immigration  
3 authorities.

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

9 §1405. Notice to officials and law enforcement officers

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

16 §1406. Complaint; notice

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

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

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. 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 has the authority to  
17          take the following actions:

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

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

25          B. Upon adjudication by the court declaring that a state agency or political  
26          subdivision is in violation of this Chapter, the court shall enjoin the unlawful  
27          sanctuary policy and order that the state agency or political subdivision pay a civil  
28          penalty to the state of an amount not less than one thousand dollars but no more than

1        five thousand dollars for each day the state agency or political subdivision remains  
2        noncompliant after the injunction is granted.

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

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

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

11               F. The state treasurer shall adopt rules and regulations necessary to  
12       implement the penalties provided in this Chapter and ensure that the penalty is not  
13       imposed on any state agency or political subdivision not named in the attorney  
14       general opinion and judicial order.

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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)]

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HB 676 Original

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 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)