
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 135 Original

2017 Regular Session

Hodges

Abstract: Prohibits state agencies or political subdivisions from developing certain policies with respect to immigration enforcement.

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

- (1) Prohibits or discourages cooperation with I.C.E. in the enforcement of immigration laws.
- (2) Prevents law enforcement officers from exchanging information with I.C.E.
- (3) Prevents law enforcement from asking any suspect, arrestee, or person in lawful custody about his name, date and place of birth, or immigration status.
- (4) Restricts or imposes any conditions upon the state agency or political subdivision's cooperation or compliance with detainers or other requests from I.C.E.

Proposed law requires the following duties of a law enforcement agency:

- (1) If a person is unable to provide proof of citizenship or immigration status within 48 hours after arrest, the law enforcement agency shall notify I.C.E. and review any information available from the federal Priority Enforcement Program.
- (2) If the person is not a citizen, the law enforcement agency is required to provide notice to the judge or magistrate and record it in the court record.
- (3) If a law enforcement agency has a person in custody that is subject to an immigration detainer issued by I.C.E., the law enforcement agency must send notice to the judge or magistrate, record in the case file that the person is subject to an immigration detainer, and fully comply with the detainer.

Proposed law provides that in non-felony criminal cases when the judgment requires an illegal alien to be confined in a correctional facility and the illegal alien is subject to an immigration detainer, the judge shall order the correctional facility to reduce the defendant's sentence no longer than seven days when:

- (1) I.C.E. gives notice to the correctional facility that the agency is requesting the transfer of

custody in order to deport the illegal alien.

- (2) The correctional facility determines that the reduction in sentence will facilitate the seamless transfer of the illegal alien into federal custody.

Proposed law further requires that if the immigration status of an illegal alien is not available at the time of sentencing or if a detainer is issued after sentencing, the law enforcement agency or correctional facility must provide notice to the judge of record who shall issue an order stating that the detainer request is valid and the reduction will facilitate the deportation of the illegal alien.

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 particular entity from the time it became noncompliant with proposed law.

Proposed law requires the governing authority of each political subdivision and the head of each state agency to provide each law enforcement officer with a printed copy of the provisions of proposed law and with written notice of the duties to cooperate.

Proposed law allows any person 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 shall have 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 an entity 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 entity remains noncompliant with proposed law after the

injunction is granted.

Proposed law allows the attorney general to recover reasonable expenses incurred in obtaining relief under proposed law.

Proposed law requires that the treasurer adopt rules to implement regarding proposed law.

(Adds R.S. 49:1401-1408)