



Anti-Sanctuary Jurisdiction Legislation: Attacks on Local Communities Promoting Constitutional Policing

Over the years, anti-sanctuary jurisdiction legislation has been a central focus of immigration hardliners. These proposals are intended to punish local jurisdictions who limit their entanglement with federal immigration enforcement. However, those seeking [bipartisan solutions on immigration](#) have rejected anti-sanctuary legislation, a recognition of the serious constitutional defects inherent in anti-sanctuary policies and the devaluation of how local communities wish to promote constitutional policing practices and build trust with communities of color.

Though the Department of Homeland Security (DHS) budget exceeds that of all other federal law enforcement agencies combined, DHS relies heavily on the voluntary assistance of local governments and law enforcement to remove individuals. However, localities have no legal authority to enforce immigration law and no legal obligation to assist DHS with immigration enforcement. Still, [over 75% of counties](#) voluntarily detain individuals at the request of DHS' Immigration and Customs Enforcement (ICE).

Sanctuary cities or jurisdictions are loosely identified as those that enact policies limiting involvement of their local law enforcement agencies in immigration enforcement. Sanctuary jurisdictions cannot and do not prohibit ICE from enforcing immigration law in their jurisdictions. The level of disengagement of local law enforcement with federal immigration enforcement can vary among localities but some examples include restricting ICE access to local jails, refusing to honor detainer requests (ICE requests to detain an individual beyond the constitutionally permissible time to effectuate transferring custody to ICE) and a prohibition on county officials on asking individuals about immigration status. Currently, more than 760 counties refuse to comply with detainer requests - this represents close to 25% of counties in the US. Just over 5% of counties in the US restrict notifications to ICE about individuals' release dates or other information; under 4% of counties limit ICE access to local jails or interrogation of detainees; under 4% prohibit county officials' inquiries into immigration status and/or place of birth; and just under 4% of counties prohibit participation in immigration enforcement.

Contrary to anti-sanctuary policies that rely on an overbroad use of federal power, sanctuary jurisdictions promote building healthier relationships between law enforcement and communities of color; prioritizing constitutional policing practices; and

protecting survivors and witnesses of crime. Most recently, [federal courts](#) have ruled that the federal government cannot coerce sanctuary cities to engage in immigration enforcement through conditioning the receipt of federal funds.

Summary and Comparison of Select Bills

	Stop Dangerous Sanctuary Cities Act	No Sanctuary for Criminals Act	Stop Sanctuary Policies and Protect Americans Act	Mobilizing Against Sanctuary Cities Act	Enforce the Law for Sanctuary Cities Act
<i>Sponsor/Bill number</i>	Toomey S.87/Black H.R. 400	Goodlatte H.R. 3003	Vitter S. 2146	Barletta H.R. 83	Hunter H.R. 3009
<i>Congress</i>	115th	115th	114th	115th	114th
<i>Legislative Posture</i>	<p>Introduced in the 115th Congress by Senator Toomey (S. 87) with 25 Republican co-sponsors and Rep. Black (H.R. 400) with 94 Republican co-sponsors.</p> <p>In the February 2018 Senate floor votes on immigration, this bill was offered as an amendment and received 54 votes (4 Democrats voted for). Here is the ILRC's Vote Recommendation Against Toomey 1948.</p>	<p>Introduced in the 115th Congress by Rep. Goodlatte (H.R. 3003) and passed House in June 2017 with 225 votes, including 3 Democrats. Seven Republicans voted against the bill. Here is NIJC's analysis of this bill.</p>	<p>Introduced in the 114th Congress by Senator Vitter (S. 2146) with 16 Republican co-sponsors.</p> <p>In October 2015, motion to proceed did not pass by vote of 54-45. Here is AILA's vote recommendation against S. 2146.</p>	<p>Introduced in the 115th Congress by Rep. Barletta (HR 83) with 15 Republican co-sponsors.</p>	<p>Introduced in the 114th Congress by Rep. Hunter (H.R. 3009) and passed House in July of 2015 with 241 votes, including 6 Democrats. Five Republicans voted against the bill. Here is an NGO sign on letter in opposition to H.R. 3009.</p>
<i>Definition of Sanctuary City</i>	<p>State or locality that has law or policy that restricts sharing information on immigration status OR from complying with a detainer or notification request.</p> <p>An exception to sanctuary jurisdiction definition is when a</p>	Does not address.	A state or locality that has a law or policy in violation of 8 USC § 1373 or a law or policy that prohibits compliance with a detainer or notification request.	Does not address.	Does not address.

	state or locality does not share information or comply with detainers/notifications for an individual who comes forward as a victim or witness to a criminal offense.				
<i>Funding Restrictions</i>	<p>Limits four Economic Development Administration Grants to sanctuary cities: 1) grants for public works and economic development; 2) grants for planning and administrative expenses; 3) supplementary grants; and 4) grants for training, research and technical assistance.</p> <p>Limits Community Development Block Grants to sanctuary cities and calls on those who have received funds to return them.</p>	Any state or locality that fails to comply with 8 USC § 1373 is ineligible for federal funds including SCAAP; Cops on the Beat program funds; Byrne JAG funds; and any other funds from DOJ or DHS related to law enforcement, terrorism, national security, immigration or naturalization.	<p>Restricts sanctuary cities from the following federal grants: 1) SCAAP; 2) Cops on the Beat program; and 3) Community Development Block Grants.</p> <p>Requires return of funds for sanctuary jurisdictions that received funding and sets forth enforcement scheme.</p>	<p>Any state or locality in violation of 8 USC § 1373 is ineligible for any federal financial assistance.</p> <p>Attorney General, each year, will determine and report which jurisdictions are in compliance.</p>	<p>Any state or locality is ineligible for SCAAP funding if they have a law or policy in violation of 8 USC § 1373 or prohibit state or local law enforcement from gathering citizenship or immigration status information.</p> <p>Any state or locality that has a law or policy in violation of 8 USC § 1373 or prohibits state or local law enforcement from gathering citizenship or immigration status information shall have COPS and Byrne-JAG funds withheld.</p>
<i>State/Local Immigration Authority</i>	Deems a state or local agent complying with a detainer as a DHS agent, with the full authority of a DHS agent.	Amends 8 USC § 1373 by prohibiting any state or local law or policy from restricting compliance with immigration laws or assisting/cooperating	Deems a state or local agent complying with a detainer as a DHS agent, with the full authority of a DHS agent.	Does not address.	Does not address.

		<p>with federal agents in enforcing these laws.</p> <p>Specific law enforcement activities that cannot be restricted by state and local laws and policies include: 1) making inquiries to obtain information; 2) notifying federal government about individuals encountered; and 3) complying with requests from federal agents.</p> <p>Nothing in this law requires law enforcement to report or arrest victims or witnesses of a criminal offense.</p>			
<i>Detainers</i>	Shifts liability for legal challenges to detainer compliance to federal government.	<p>Amends INA § 287(d) to require DHS to issue a detainer if there is probable cause to believe the individual is inadmissible or deportable. Broadly defines probable cause as when there is biometric confirmation of identity; the individual is subject of removal proceedings; there is a prior order of removal; the individual made voluntary statements or other reliable evidence; or there are reasonable grounds to believe the individual is inadmissible or deportable.</p> <p>Allows state or locality to hold individual on detainer for up to 96 hours.</p>	Shifts liability for legal challenges to detainer compliance to federal government.	Does not address.	Does not address.

		<p>Holds harmless any state or locality for liability related to detainer compliance.</p> <p>Shifts liability for detainer compliance to the federal government.</p>			
<i>DHS Authority</i>	Does not address.	<p>DHS can decline to transfer custody of individual to state or locality unless that entity is in compliance with 8 USC § 1373.</p> <p>DHS will not transfer custody of individuals with final orders of removal to state or locality unless that entity is in compliance with 8 USC § 1373.</p>	Does not address.	Does not address.	Does not address.
<i>Private Right of Action</i>	Does not address.	<p>Individual, spouse, parent or child who is a victim of murder, rape or any felony and convicted and sentenced for at least 1 year, may bring an action against the state or locality if the entity declined to honor a detainer.</p> <p>Ten year statute of limitations and attorneys' fees.</p>	Does not address.	Does not address.	Does not address.
<i>Detention</i>	Does not address.	<p>Authorizes the indefinite detention of individuals.</p> <p>Expands mandatory detention to those convicted of driving while intoxicated; individuals who entered without inspection</p>	Does not address.	Does not address.	Does not address.

		<p>and individuals whose visas have been revoked, and who have violated their visa status and been arrested or charged with a particularly serious crime or crime resulting in death or serious bodily injury.</p> <p>Limits immigration judge's review of DHS custody determinations and sets forth a clear and convincing standard for certain individuals seeking bond.</p>			
<i>Reentry</i>	Does not address.	Does not address.	<p>Increases penalties for reentry convictions to five years.</p> <p>Sets forth a mandatory minimum for the illegal reentry for individuals deemed to be aggravated felons or individuals with at least two reentry convictions.</p>	Does not address.	Does not address.

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