Calendar No. 252

114TH CONGRESS
1ST SESSION

S. 2146

To hold sanctuary jurisdictions accountable for defying Federal law, to increase penalties for individuals who illegally reenter the United States after being removed, and to provide liability protection for State and local law enforcement who cooperate with Federal law enforcement and for other purposes.

IN THE SENATE OF THE UNITED STATES

October 6, 2015

Mr. Vitter (for himself, Mr. Toomey, Mr. Grassley, Mr. Cruz, Mr. Johnson, Mr. Cornyn, Mr. Perdue, Mr. Isakson, Mr. Rubio, Mr. Barrasso, Mr. Sullivan, and Mr. Inhofe) introduced the following bill; which was read the first time

October 7, 2015

Read the second time and placed on the calendar

A BILL

To hold sanctuary jurisdictions accountable for defying Federal law, to increase penalties for individuals who illegally reenter the United States after being removed, and to provide liability protection for State and local law enforcement who cooperate with Federal law enforcement and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Sanctuary Policies and Protect Americans Act”.

SEC. 2. SANCTUARY JURISDICTION DEFINED.

In this Act, the term “sanctuary jurisdiction” means any State or political subdivision of a State, including any law enforcement entity of a State or of a political subdivision of a State, that—

(1) has in effect a statute, ordinance, policy, or practice that is in violation of subsection (a) or (b) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373); or

(2) has in effect a statute, ordinance, policy, or practice that prohibits any government entity or official from complying with a detainer that has been lawfully issued or a request to notify about the release of an alien that has been made by the Department of Homeland Security in accordance with section 236 and 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357) and section 287.7 of title 8, Code of Federal Regulations.

SEC. 3. LIMITATION ON GRANTS TO SANCTUARY JURISDICTIONS.

(a) INELIGIBILITY FOR GRANTS.—

(1) LAW ENFORCEMENT GRANTS.—
(A) SCAAP GRANTS.—A sanctuary jurisdiction shall not be eligible to receive funds pursuant to the State Criminal Alien Assistance Program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)).

(B) COPS GRANTS.—No law enforcement entity of a State or of a political subdivision of a State that has a departmental policy or practice that renders it a sanctuary jurisdiction, and such a policy or practice is not required by statute, ordinance, or other codified law, or by order of a chief executive officer of the jurisdiction, or the executive or legislative board of the jurisdiction, shall be eligible to receive funds directly or indirectly under the ‘Cops on the Beat’ program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(C) ENFORCEMENT.—The Attorney General, in consultation with the Secretary of Homeland Security, shall terminate the funding described in subparagraphs (A) and (B) to a State or political subdivision of a State on the date that is 30 days after the date on which a notification described in subsection (d)(2) is
made to the State or subdivision, unless the Secretary of Homeland Security, in consultation with the Attorney General, determines the State or subdivision is no longer a sanctuary jurisdiction.

(2) Community development block grants.—

(A) In general.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(i) in section 102 (42 U.S.C. 5302), by adding at the end the following:

“(25) The term ‘sanctuary jurisdiction’ means any State or unit of general local government that—

“(A) has in effect a statute, ordinance, policy, or practice that is in violation of subsection (a) or (b) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373); or

“(B) has in effect a statute, ordinance, policy, or practice that prohibits any government entity or official from complying with a detainer that has been lawfully issued or a request to notify about the release of an alien that has been made by the Department of
Homeland Security in accordance with section 236 and 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357) and section 287.7 of title 8, Code of Federal Regulations.”;

and

(ii) in section 104 (42 U.S.C. 5304)—

(I) in subsection (b)—

(aa) in paragraph (5), by striking “and” at the end;

(bb) by redesignating paragraph (6) as paragraph (7); and

(ce) by inserting after paragraph (5) the following:

“(6) the grantee is not a sanctuary jurisdiction and will not become a sanctuary jurisdiction during the period for which the grantee receives a grant under this title; and”; and

(II) by adding at the end the following:

“(n) Protection of Individuals Against Criminal Aliens.—

“(1) In general.—No funds authorized to be appropriated to carry out this title may be obligated or expended to any State or unit of general local government that is a sanctuary jurisdiction.
“(2) RETURNED AMOUNTS.—

“(A) STATE.—If a State is a sanctuary jurisdiction during the period for which the State receives amounts under this title, the Secretary—

“(i) shall direct the State to immediately return to the Secretary any such amounts that have not been obligated by the State as of the date on which the State became a sanctuary jurisdiction; and

“(ii) may use any returned amounts under clause (i) to make grants to other States that are not sanctuary jurisdictions in accordance with this title.

“(B) UNIT OF GENERAL LOCAL GOVERNMENT.—If a unit of general local government is a sanctuary jurisdiction during the period for which the unit of general local government receives amounts under this title, any such amounts that have not been obligated by the unit of general local government as of the date on which the unit of general local government became a sanctuary jurisdiction—

“(i) in the case of a unit of general local government that is not in a non-
entitlement area, shall be returned to the Secretary to make grants to States and other units of general local government that are not sanctuary jurisdictions in accordance with this title; and

“(ii) in the case of a unit of general local government that is in a nonentitlement area, shall be returned to the Governor of the State to make grants to other units of general local government that are not sanctuary jurisdictions in accordance with this title.

“(o) ENFORCEMENT AGAINST FUNDING FOR SANCTUARY JURISDICTIONS.—

“(1) IN GENERAL.—The Secretary shall verify, on a quarterly basis, the determination of the Secretary of Homeland Security and the Attorney General as to whether a State or unit of general local government is a sanctuary jurisdiction and therefore ineligible to receive a grant under this title for purposes of subsections (b)(6) and (n).

“(2) NOTIFICATION.—If the Secretary verifies that a State or unit of general local government is determined to be a sanctuary jurisdiction under paragraph (1), the Secretary shall notify the State
or unit of general local government that it is ineligible to receive a grant under this title.”.

(B) Effective date.—The amendments made by subparagraph (A) shall only apply with respect to community development block grants made under title I of the Housing and Community Development Act (42 U.S.C. 5301 et seq.) after the date of the enactment of this Act.

(b) Allocation.—Any funds that are not allocated to a State or political subdivision of a State pursuant to subsection (a) and the amendments made by subsection (a) shall be allocated to States and political subdivisions of States that are not sanctuary jurisdictions.

(e) Notification of Congress.—Not later than 5 days after a determination is made pursuant to subsection (a) to terminate a grant or to refuse to award a grant, the Secretary of Homeland Security shall submit to the Committee on Appropriations and the Committee on the Judiciary of the Senate and the Committee on Appropriations and the Committee on the Judiciary of the House of Representatives a report that fully describes the circumstances and basis for the termination or refusal.

(d) Transparency and Accountability.—Not later than 60 days after the date of the enactment of this
Act, and quarterly thereafter, the Secretary of Homeland Security and the Attorney General shall—

(1) determine the States and political subdivisions of States that are sanctuary jurisdictions;

(2) notify each such State or subdivision that it is determined to be a sanctuary jurisdiction; and

(3) publish on the website of the Department of Homeland Security and of the Department of Justice—

(A) a list of each sanctuary jurisdiction;

(B) the total number of detainers and requests for notification of the release of any alien that has been issued or made to each State or political subdivision of a State; and

(C) the number of such detainers and requests for notification that have been ignored or otherwise not honored, including the name of the jurisdiction in which each such detainer or request for notification was issued or made.

(e) CONSTRUCTION.—Nothing in this section may be construed to require law enforcement officials of a State or a political subdivision of a State to provide the Secretary of Homeland Security with information related to a victim or a witness to a criminal offense.
SEC. 4. STATE AND LOCAL GOVERNMENT AND INDIVIDUAL COMPLIANCE WITH DETAINERS.

(a) Authority to Carry Out Detainers.—A State, a political subdivision of a State, or an officer, employee, or agent of such State or political subdivision that complies with a detainer issued by the Department of Homeland Security under section 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357)—

(1) shall be deemed to be acting as an agent of the Department of Homeland Security; and

(2) shall have the authority available to employees of the Department of Homeland Security with regard to actions taken to comply with the detainer.

(b) Liability.—In any legal proceeding brought against a State, a political subdivision of State, or an officer, employee, or agent of such State or political subdivision, which challenges the legality of the seizure or detention of an individual pursuant to a detainer issued by the Department of Homeland Security under section 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357)—

(1) no liability shall lie against the State or political subdivision for actions taken in compliance with the detainer;
(2) if the actions of the officer, employee, or agent of the State or political subdivision were taken in compliance with the detainer—

(A) the officer, employee, or agent shall be deemed to be an employee of the Federal Government and an investigative or law enforcement officer and to have been acting within the scope of his or her employment under section 1346(b) and chapter 171 of title 28, United States Code;

(B) section 1346(b) of title 28, United States Code, shall provide the exclusive remedy for the plaintiff; and

(C) the United States shall be substituted as defendant in the proceeding.

(e) CONSTRUCTION.—Nothing in this Act may be construed—

(1) to provide immunity to any person who knowingly violates the civil or constitutional rights of an individual; or

(2) to limit the application of the doctrine of official immunity or of qualified immunity in a civil action brought against a law enforcement officer acting pursuant to a detainer issued by the Department of Homeland Security under section 236 or 287 of
the Immigration and Nationality Act (8 U.S.C. 1226 and 1357).

SEC. 5. INCREASED PENALTIES FOR REENTRY OF REMOVED ALIEN.

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by striking subsections (a) and (b) and inserting the following:

“(a) IN GENERAL.—Subject to subsections (b) and (c), any alien who—

“(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

“(2) thereafter enters, attempts to enter, or is at any time found in, the United States, unless—

“(A) prior to the alien’s reembarkation at a place outside the United States or the alien’s application for admission from foreign contiguous territory, the Secretary of Homeland Security has expressly consented to such alien’s reapplying for admission; or
“(B) with respect to an alien previously denied admission and removed, such alien shall establish that the alien was not required to obtain such advance consent under this Act or any prior Act;

shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

“(b) **Criminal Penalties for Reentry of Certain Removed Aliens.**—

“(1) **In general.**—Notwithstanding the penalty provided in subsection (a), and except as provided in subsection (c), an alien described in subsection (a)—

“(A) who was convicted before such removal or departure of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

“(B) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of
title V, and who thereafter, without the permission of the Secretary of Homeland Security, enters the United States, or attempts to do so, shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence;

“(C) who was removed from the United States pursuant to section 241(a)(4)(B) who thereafter, without the permission of the Secretary of Homeland Security, enters, attempts to enter, or is at any time found in, the United States (unless the Secretary of Homeland Security has expressly consented to such alien’s re-entry) shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both; and

“(D) who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.
“(2) Removal defined.—In this subsection and subsection (e), the term ‘removal’ includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.

“(e) Mandatory Minimum Criminal Penalty for Reentry of Certain Removed Aliens.—Notwithstanding the penalties provided in subsections (a) and (b), an alien described in subsection (a)—

“(1) who was convicted before such removal or departure of an aggravated felony; or

“(2) who was convicted at least two times before such removal or departure of illegal reentry under this section;

shall be imprisoned not less than five years and not more than 20 years, and may, in addition, be fined under title 18, United States Code.”; and

(3) in subsection (d), as redesignated by paragraph (1)—

(A) by striking “section 242(h)(2)” and inserting “section 241(a)(4)”; and

(B) by striking “Attorney General” and inserting “Secretary of Homeland Security”.

SEC. 6. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held invalid for any reason, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.
A BILL

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OCTOBER 7, 2015

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[...]

To hold sanctuary jurisdictions accountable for cooperating with Federal law enforcement and for
cooperation with State and local law enforcement who
cooperation with Federal law enforcement to enforce
after being removed and to provide liability for
individuals who defraud Federal law to increase
protection for State and local law enforcement and for
protecting the United States.

A BILL