

Calendar No. 252114TH 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stop Sanctuary Poli-
3 cies and Protect Americans Act”.

4 **SEC. 2. SANCTUARY JURISDICTION DEFINED.**

5 In this Act, the term “sanctuary jurisdiction” means
6 any State or political subdivision of a State, including any
7 law enforcement entity of a State or of a political subdivi-
8 sion of a State, that—

9 (1) has in effect a statute, ordinance, policy, or
10 practice that is in violation of subsection (a) or (b)
11 of section 642 of the Illegal Immigration Reform
12 and Immigrant Responsibility Act of 1996 (8 U.S.C.
13 1373); or

14 (2) has in effect a statute, ordinance, policy, or
15 practice that prohibits any government entity or offi-
16 cial from complying with a detainer that has been
17 lawfully issued or a request to notify about the re-
18 lease of an alien that has been made by the Depart-
19 ment of Homeland Security in accordance with sec-
20 tion 236 and 287 of the Immigration and Nation-
21 ality Act (8 U.S.C. 1226 and 1357) and section
22 287.7 of title 8, Code of Federal Regulations.

23 **SEC. 3. LIMITATION ON GRANTS TO SANCTUARY JURISDIC-**
24 **TIONS.**

25 (a) INELIGIBILITY FOR GRANTS.—

26 (1) LAW ENFORCEMENT GRANTS.—

1 (A) SCAAP GRANTS.—A sanctuary juris-
2 diction shall not be eligible to receive funds pur-
3 suant to the State Criminal Alien Assistance
4 Program under section 241(i) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1231(i)).

6 (B) COPS GRANTS.—No law enforcement
7 entity of a State or of a political subdivision of
8 a State that has a departmental policy or prac-
9 tice that renders it a sanctuary jurisdiction, and
10 such a policy or practice is not required by stat-
11 ute, ordinance, or other codified law, or by
12 order of a chief executive officer of the jurisdic-
13 tion, or the executive or legislative board of the
14 jurisdiction, shall be eligible to receive funds di-
15 rectly or indirectly under the ‘Cops on the Beat’
16 program under part Q of title I of the Omnibus
17 Crime Control and Safe Streets Act of 1968
18 (42 U.S.C. 3796dd et seq.).

19 (C) ENFORCEMENT.—The Attorney Gen-
20 eral, in consultation with the Secretary of
21 Homeland Security, shall terminate the funding
22 described in subparagraphs (A) and (B) to a
23 State or political subdivision of a State on the
24 date that is 30 days after the date on which a
25 notification described in subsection (d)(2) is

1 made to the State or subdivision, unless the
2 Secretary of Homeland Security, in consultation
3 with the Attorney General, determines the State
4 or subdivision is no longer a sanctuary jurisdic-
5 tion.

6 (2) COMMUNITY DEVELOPMENT BLOCK
7 GRANTS.—

8 (A) IN GENERAL.—Title I of the Housing
9 and Community Development Act of 1974 (42
10 U.S.C. 5301 et seq.) is amended—

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

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

15 “(A) has in effect a statute, ordinance, pol-
16 icy, or practice that is in violation of subsection
17 (a) or (b) of section 642 of the Illegal Immigra-
18 tion Reform and Immigrant Responsibility Act
19 of 1996 (8 U.S.C. 1373); or

20 “(B) has in effect a statute, ordinance,
21 policy, or practice that prohibits any govern-
22 ment entity or official from complying with a
23 detainer that has been lawfully issued or a re-
24 quest to notify about the release of an alien
25 that has been made by the Department of

1 Homeland Security in accordance with section
2 236 and 287 of the Immigration and Nation-
3 ality Act (8 U.S.C. 1226 and 1357) and section
4 287.7 of title 8, Code of Federal Regulations.”;
5 and

6 (ii) in section 104 (42 U.S.C. 5304)—

7 (I) in subsection (b)—

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

10 (bb) by redesignating para-
11 graph (6) as paragraph (7); and

12 (cc) by inserting after para-
13 graph (5) the following:

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

18 (II) by adding at the end the fol-
19 lowing:

20 “(n) PROTECTION OF INDIVIDUALS AGAINST CRIMI-
21 NAL ALIENS.—

22 “(1) IN GENERAL.—No funds authorized to be
23 appropriated to carry out this title may be obligated
24 or expended to any State or unit of general local
25 government that is a sanctuary jurisdiction.

1 “(2) RETURNED AMOUNTS.—

2 “(A) STATE.—If a State is a sanctuary ju-
3 risdiction during the period for which the State
4 receives amounts under this title, the Sec-
5 retary—

6 “(i) shall direct the State to imme-
7 diately return to the Secretary any such
8 amounts that have not been obligated by
9 the State as of the date on which the State
10 became a sanctuary jurisdiction; and

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

15 “(B) UNIT OF GENERAL LOCAL GOVERN-
16 MENT.—If a unit of general local government is
17 a sanctuary jurisdiction during the period for
18 which the unit of general local government re-
19 ceives amounts under this title, any such
20 amounts that have not been obligated by the
21 unit of general local government as of the date
22 on which the unit of general local government
23 became a sanctuary jurisdiction—

24 “(i) in the case of a unit of general
25 local government that is not in a non-

1 entitlement area, shall be returned to the
2 Secretary to make grants to States and
3 other units of general local government
4 that are not sanctuary jurisdictions in ac-
5 cordance with this title; and

6 “(ii) in the case of a unit of general
7 local government that is in a nonentitle-
8 ment area, shall be returned to the Gov-
9 ernor of the State to make grants to other
10 units of general local government that are
11 not sanctuary jurisdictions in accordance
12 with this title.

13 “(o) ENFORCEMENT AGAINST FUNDING FOR SANC-
14 TUARY JURISDICTIONS.—

15 “(1) IN GENERAL.—The Secretary shall verify,
16 on a quarterly basis, the determination of the Sec-
17 retary of Homeland Security and the Attorney Gen-
18 eral as to whether a State or unit of general local
19 government is a sanctuary jurisdiction and therefore
20 ineligible to receive a grant under this title for pur-
21 poses of subsections (b)(6) and (n).

22 “(2) NOTIFICATION.—If the Secretary verifies
23 that a State or unit of general local government is
24 determined to be a sanctuary jurisdiction under
25 paragraph (1), the Secretary shall notify the State

1 or unit of general local government that it is ineli-
2 gible to receive a grant under this title.”.

3 (B) EFFECTIVE DATE.—The amendments
4 made by subparagraph (A) shall only apply with
5 respect to community development block grants
6 made under title I of the Housing and Commu-
7 nity Development Act (42 U.S.C. 5301 et seq.)
8 after the date of the enactment of this Act.

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

14 (c) NOTIFICATION OF CONGRESS.—Not later than 5
15 days after a determination is made pursuant to subsection
16 (a) to terminate a grant or to refuse to award a grant,
17 the Secretary of Homeland Security shall submit to the
18 Committee on Appropriations and the Committee on the
19 Judiciary of the Senate and the Committee on Appropria-
20 tions and the Committee on the Judiciary of the House
21 of Representatives a report that fully describes the cir-
22 cumstances and basis for the termination or refusal.

23 (d) TRANSPARENCY AND ACCOUNTABILITY.—Not
24 later than 60 days after the date of the enactment of this

1 Act, and quarterly thereafter, the Secretary of Homeland
2 Security and the Attorney General shall—

3 (1) determine the States and political subdivi-
4 sions of States that are sanctuary jurisdictions;

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

7 (3) publish on the website of the Department of
8 Homeland Security and of the Department of Jus-
9 tice—

10 (A) a list of each sanctuary jurisdiction;

11 (B) the total number of detainees and re-
12 quests for notification of the release of any
13 alien that has been issued or made to each
14 State or political subdivision of a State; and

15 (C) the number of such detainees and re-
16 quests for notification that have been ignored or
17 otherwise not honored, including the name of
18 the jurisdiction in which each such detainer or
19 request for notification was issued or made.

20 (e) CONSTRUCTION.—Nothing in this section may be
21 construed to require law enforcement officials of a State
22 or a political subdivision of a State to provide the Sec-
23 retary of Homeland Security with information related to
24 a victim or a witness to a criminal offense.

1 **SEC. 4. STATE AND LOCAL GOVERNMENT AND INDIVIDUAL**
2 **COMPLIANCE WITH DETAINERS.**

3 (a) **AUTHORITY TO CARRY OUT DETAINERS.**—A
4 State, a political subdivision of a State, or an officer, em-
5 ployee, or agent of such State or political subdivision that
6 complies with a detainer issued by the Department of
7 Homeland Security under section 236 or 287 of the Immi-
8 gration and Nationality Act (8 U.S.C. 1226 and 1357)—

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

11 (2) shall have the authority available to employ-
12 ees of the Department of Homeland Security with
13 regard to actions taken to comply with the detainer.

14 (b) **LIABILITY.**—In any legal proceeding brought
15 against a State, a political subdivision of State, or an offi-
16 cer, employee, or agent of such State or political subdivi-
17 sion, which challenges the legality of the seizure or deten-
18 tion of an individual pursuant to a detainer issued by the
19 Department of Homeland Security under section 236 or
20 287 of the Immigration and Nationality Act (8 U.S.C.
21 1226 and 1357)—

22 (1) no liability shall lie against the State or po-
23 litical subdivision for actions taken in compliance
24 with the detainer;

1 (2) if the actions of the officer, employee, or
2 agent of the State or political subdivision were taken
3 in compliance with the detainer—

4 (A) the officer, employee, or agent shall be
5 deemed to be an employee of the Federal Gov-
6 ernment and an investigative or law enforce-
7 ment officer and to have been acting within the
8 scope of his or her employment under section
9 1346(b) and chapter 171 of title 28, United
10 States Code;

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

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

16 (c) CONSTRUCTION.—Nothing in this Act may be
17 construed—

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

21 (2) to limit the application of the doctrine of of-
22 ficial immunity or of qualified immunity in a civil
23 action brought against a law enforcement officer act-
24 ing pursuant to a detainer issued by the Department
25 of Homeland Security under section 236 or 287 of

1 the Immigration and Nationality Act (8 U.S.C. 1226
2 and 1357).

3 **SEC. 5. INCREASED PENALTIES FOR REENTRY OF RE-**
4 **MOVED ALIEN.**

5 Section 276 of the Immigration and Nationality Act
6 (8 U.S.C. 1326) is amended—

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

9 (2) by striking subsections (a) and (b) and in-
10 sserting the following:

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

13 “(1) has been denied admission, excluded, de-
14 ported, or removed or has departed the United
15 States while an order of exclusion, deportation, or
16 removal is outstanding; and

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

19 “(A) prior to the alien’s reembarkation at
20 a place outside the United States or the alien’s
21 application for admission from foreign contig-
22 uous territory, the Secretary of Homeland Se-
23 curity has expressly consented to such alien’s
24 reapplying for admission; or

1 “(B) with respect to an alien previously de-
2 nied admission and removed, such alien shall
3 establish that the alien was not required to ob-
4 tain such advance consent under this Act or
5 any prior Act;

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

8 “(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
9 TAIN REMOVED ALIENS.—

10 “(1) IN GENERAL.—Notwithstanding the pen-
11 alty provided in subsection (a), and except as pro-
12 vided in subsection (c), an alien described in sub-
13 section (a)—

14 “(A) who was convicted before such re-
15 moval or departure of three or more mis-
16 demeanors involving drugs, crimes against the
17 person, or both, or a felony (other than an ag-
18 gravated felony), shall be fined under title 18,
19 United States Code, imprisoned not more than
20 10 years, or both;

21 “(B) who has been excluded from the
22 United States pursuant to section 235(c) be-
23 cause the alien was excludable under section
24 212(a)(3)(B) or who has been removed from
25 the United States pursuant to the provisions of

1 title V, and who thereafter, without the permis-
2 sion of the Secretary of Homeland Security, en-
3 ters the United States, or attempts to do so,
4 shall be fined under title 18, United States
5 Code, and imprisoned for a period of 10 years,
6 which sentence shall not run concurrently with
7 any other sentence;

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

18 “(D) who has been denied admission, ex-
19 cluded, deported, or removed 3 or more times
20 and thereafter enters, attempts to enter, crosses
21 the border to, attempts to cross the border to,
22 or is at any time found in the United States,
23 shall be fined under title 18, United States
24 Code, imprisoned not more than 10 years, or
25 both.

1 “(2) REMOVAL DEFINED.—In this subsection
2 and subsection (c), the term ‘removal’ includes any
3 agreement in which an alien stipulates to removal
4 during (or not during) a criminal trial under either
5 Federal or State law.

6 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
7 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
8 standing the penalties provided in subsections (a) and (b),
9 an alien described in subsection (a)—

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

12 “(2) who was convicted at least two times be-
13 fore such removal or departure of illegal reentry
14 under this section;

15 shall be imprisoned not less than five years and not more
16 than 20 years, and may, in addition, be fined under title
17 18, United States Code.”; and

18 (3) in subsection (d), as redesignated by para-
19 graph (1)—

20 (A) by striking “section 242(h)(2)” and in-
21 serting “section 241(a)(4)”; and

22 (B) by striking “Attorney General” and in-
23 serting “Secretary of Homeland Security”.

1 **SEC. 6. SEVERABILITY.**

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

Calendar No. 252

114TH CONGRESS
1ST Session
S. 2146

A BILL

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