Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

Updated March 4, 2025

"Sanctuary" Jurisdictions: Policy Overview

Overview

Some state and local jurisdictions have adopted policies that limit their cooperation with federal agencies charged with immigration enforcement. These "sanctuary" policies, which have been controversial for decades, highlight a tension between federal agencies and states and localities (e.g., counties, cities) that limit their cooperation with certain immigration enforcement actions. The Trump Administration's stated intention for increased immigration enforcement has reignited debates over immigration enforcement approaches within the United States. A key component of that discussion is the level of cooperation between federal immigration enforcement authorities and states and localities, especially state and local law enforcement agencies (LEAs).

Federal Immigration Enforcement

The Department of Homeland Security (DHS) is the primary federal agency responsible for immigration enforcement. Within DHS, Customs and Border Protection (CBP) mainly handles immigration enforcement at U.S. borders and ports of entry, and Immigration and Customs Enforcement (ICE) generally handles immigration enforcement within the U.S. interior. As part of its enforcement activities, ICE may issue immigration detainers to state and local LEAs, requesting that they hold an *alien* (i.e., a non-U.S. citizen or national) in their custody for up to 48 hours after the alien would otherwise be released, so that ICE may take the person into custody for removal purposes.

DHS may also enter into cooperative agreements authorized in 8 U.S.C. §1357(g) (commonly known as *287(g) agreements*) under which state and local law enforcement officers may be delegated authority to identify, arrest, and process aliens targeted for removal. Such cooperation enables participating LEAs to serve, in a limited capacity, as a *force multiplier* for the agency, engaging in limited immigration enforcement activities with ICE oversight. (For more information, see CRS In Focus IF11898, *The 287(g) Program: State and Local Immigration Enforcement*).

Sanctuary Jurisdictions

Although some states or cities expressly self-identify as "sanctuary" jurisdictions, the term is not defined in law. While policymakers and observers disagree on what constitutes a "sanctuary policy," two types of measures adopted by states and localities have received particular attention from the Trump Administration: (1) restricting the sharing of information about aliens with immigration authorities; and (2) barring LEAs from complying with immigration detainer requests from ICE.

Partly because there is no agreed-upon definition of "sanctuary" jurisdictions, different entities enumerate these jurisdictions using different criteria. For instance, the Center for Immigration Studies identifies 13 states and 225 localities with "sanctuary" policies (as of January 2025). The Immigrant Legal Resource Center, on the other hand, does not currently enumerate "sanctuary" jurisdictions but instead presents county-level involvement with ICE on a continuum (i.e., from what they term "pro-immigrant laws" to "anti-immigrant laws"). Any count of sanctuary jurisdictions remains imprecise because jurisdictions regularly create, change, or eliminate such policies.

Jurisdictions have enacted sanctuary policies for many reasons. Some object to ICE's removal of aliens who, apart from entering and/or remaining in the United States unlawfully, have relatively minor or no criminal records. Others are trying to prevent family separation—which can sometimes involve U.S. citizen children—that results from removals. Not all states and localities with sanctuary policies may be motivated by disagreement with federal policies. For example, some jurisdictions that establish sanctuary policies are reportedly concerned that complying with immigration detainers might subject them to legal liability (as discussed below). Others object to using limited local resources for immigration enforcement, which they consider a federal responsibility.

Legal Issues

The primary federal statutes addressing sanctuary policies, 8 U.S.C. §§1373 and 1644, bar measures that seek to prevent state or local government entities or officials from voluntarily communicating with federal immigration authorities regarding a person's immigration status. As discussed below, the Trump Administration has sought to condition state and local eligibility for certain grants upon compliance with these information-sharing provisions as well as immigration detainer requests. Efforts in the first Trump Administration to condition grant eligibility were blocked by reviewing courts, which held that the refusal to disburse grant money to sanctuary jurisdictions was unconstitutional in the absence of congressional authorization. There is ongoing litigation over the grant limitations announced by the second Trump Administration. The second Trump Administration has also sought court orders to block enforcement of state or local measures that it contends contravene federal information-sharing laws and undermine federal immigration enforcement efforts. (A legal challenge brought during the first Trump Administration to a California law that, among other things, limited state and local LEAs from sharing information about a person's release date with federal immigration authorities in response to a detainer request proved unsuccessful.)

Some appellate courts, like the U.S. Courts of Appeal for the First and Second Circuits, have also held that ICE's practice of issuing immigration detainers may violate the Fourth Amendment if a request, among other things, lacks a probable cause determination. Some states and localities have restricted compliance with detainers to avoid liability.

Arguments Against Sanctuary Policies

Critics contend that sanctuary laws and policies impede immigration enforcement and create public safety hazards. They contend that the release of convicted criminal aliens into U.S. communities by state or local LEAs, rather than facilitating their custody transfer to federal immigration authorities, poses a danger to public safety. Critics posit that state and local LEA cooperation with ICE permits ICE agents to take custody of such individuals efficiently in safe, low-risk settings (e.g., jails, prisons). ICE maintains that, absent such cooperation, its agents must use multi-person teams to locate and remove criminal aliens under more hazardous circumstances. Other critics contend that sanctuary jurisdictions encourage aliens to illegally enter or remain in the United States by protecting them from immigration enforcement.

Arguments in Favor of Sanctuary Policies

Supporters maintain that states and localities should not use their resources to assist with federal immigration enforcement efforts, particularly on aliens who have relatively minor or no criminal records and whose removal in some cases leads to family separation. They contend that state and local LEA cooperation with ICE confounds the perceived relationship between criminal law enforcement and civil immigration enforcement, inhibiting crime victims and potential witnesses from reporting crimes for fear of possible immigration-related consequences for themselves or family members. Defenders also maintain that constitutional principles of federalism allow states to choose not to participate in federal immigration enforcement activities.

Executive Orders During the Biden and Trump Administrations

During his first Administration, President Trump issued E.O. 13768, "Enhancing Public Safety in the Interior of the United States," aimed at withholding federal funding from states and localities that did not comply with 8 U.S.C. §1373. The executive order granted DHS authority to designate any state or locality as a sanctuary jurisdiction and take "appropriate enforcement action" against a jurisdiction that violated 8 U.S.C. §1373 or otherwise limited federal immigration enforcement. The executive order directed the Secretary of DHS and the Attorney General to withhold federal grants from jurisdictions that willfully refuse to comply with 8 U.S.C. §1373. As discussed above, implementation of this directive was blocked by reviewing courts.

On January 20, 2021, President Biden rescinded E.O. 13768 by way of E.O. 13993, "Executive Order on the Revision of Civil Immigration Enforcement Policies and Priorities." E.O. 13993 was, in turn, rescinded at the beginning of the second Trump Administration pursuant to E.O. 14159 "Protecting the American People Against Invasion." The new order directs the DHS Secretary and Attorney General to "evaluate and undertake any other lawful actions, civil or criminal," against any sanctuary jurisdiction that interferes with the enforcement of federal immigration law. The order further instructs the DHS Secretary to issue guidance to ensure compliance with 8 U.S.C. §§1373 and 1644. In February 2025, the Department of Justice (DOJ) published policy guidance stating, among other things, that sanctuary jurisdictions will not receive DOJ grants and that DOJ will evaluate funding agreements with nongovernmental organizations that support unauthorized noncitizens. This executive order has been legally challenged in Illinois and California.

Recent Congressional Proposals

In the 118th Congress, legislation was introduced that would have prohibited "sanctuary" jurisdictions (as defined by the specific bills), from receiving either all federal financial assistance (e.g., Mobilizing Against Sanctuary Cities Act [H.R. 780]) or specified funds or grants (e.g., No Community Development Block Grants for Sanctuary Cities Act [S. 3915]).

Some bills, such as the Cooperation with ICE Act (H.R. 6851), contained provisions that would have allowed states and localities to comply with detainers while sheltering them from legal liability for doing so. Other legislation, such as the No Sanctuary for Criminals Act of 2023 (H.R. 4684) and the Immigration Detainer Enforcement Act of 2024 (H.R. 7580), would have expanded ICE's authority to issue detainers.

Other bills, such as the Justice for Victims of Sanctuary Cities Act of 2024 (H.R. 7628), would have provided a civil remedy for individuals harmed by an alien who benefits from sanctuary jurisdiction policies. Some bills, such as the Empowering Law Enforcement Act of 2023 (H.R. 3407/ S. 1640), would have declared that LEAs have inherent authority to investigate and arrest individuals to assist federal immigration enforcement.

In contrast, bills that protect sanctuary policies, such as the New Way Forward Act (H.R. 2374), would have amended Section 287(g) of the INA and prohibited local LEAs from performing certain functions of immigration officers.

In the 119th Congress, several bills have been introduced that would deny funding to sanctuary jurisdictions, such as the No Bailout for Sanctuary Cities Act (H.R. 32), which is identical to legislation passed by the House in the 118th Congress (H.R. 5717), and the No Congressional Funds for Sanctuary Cities Act (H.R. 205).

Abigail F. Kolker, Coordinator, Analyst in Immigration Policy
William A. Kandel, Specialist in Immigration Policy
Alejandra Aramayo, Legislative Attorney

IF11438

Disclaimer