



Reprinted  
February 28, 2017

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## SENATE BILL No. 423

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DIGEST OF SB 423 (Updated February 27, 2017 5:04 pm - DI 110)

**Citations Affected:** IC 5-2.

**Synopsis:** Sanctuary policies and postsecondary educational institutions. Defines "sanctuary policy" and prohibits a postsecondary educational institution from establishing a sanctuary policy. Prohibits a postsecondary educational institution from enacting or implementing an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts an employee of the postsecondary educational institution from taking certain actions with regard to information of the citizenship or immigration status of an individual. Prohibits a postsecondary educational institution from limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law. Provides that, if a state educational institution has a sanctuary policy, the budget agency, after an advisory recommendation from the budget agency, may withhold funds appropriated by the general assembly to the state educational institution.

**Effective:** July 1, 2017.

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**Young M, Delph, Freeman, Smith J,  
Koch**

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January 10, 2017, read first time and referred to Committee on Corrections and Criminal Law.  
February 23, 2017, amended, reported favorably — Do Pass.  
February 27, 2017, read second time, amended, ordered engrossed.

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First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## SENATE BILL No. 423

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-2-18.2-2.2 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2017]: **Sec. 2.2. As used in this chapter,**  
4 **"postsecondary educational institution" refers to any state**  
5 **educational institution (as defined in IC 21-7-13-32) or private**  
6 **postsecondary educational institution that receives state or federal**  
7 **funds.**

8 SECTION 2. IC 5-2-18.2-2.4 IS ADDED TO THE INDIANA  
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2017]: **Sec. 2.4. (a) As used in this chapter,**  
11 **"sanctuary policy" means a formal or informal policy of a**  
12 **postsecondary educational institution located in Indiana in which**  
13 **any of the following apply:**

14 (1) **The postsecondary educational institution prohibits or**  
15 **restricts personnel of the postsecondary educational**  
16 **institution from:**

17 (A) **lawfully sending, receiving, maintaining, or exchanging**

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- 1 information regarding the citizenship or immigration  
2 status of any individual with a federal, state, or local  
3 governmental entity;
- 4 (B) honoring a lawful request by the United States  
5 Department of Homeland Security under Section 236 or  
6 Section 287 of the Immigration and Nationality Act (8  
7 U.S.C. 1226 or 8 U.S.C. 1357) to:
- 8 (i) comply with a detainer for an individual; or  
9 (ii) provide notification regarding the release of an  
10 individual; or
- 11 (C) otherwise complying with Section 642 of the Illegal  
12 Immigration Reform and Immigrant Responsibility Act of  
13 1996 (8 U.S.C. 1373).
- 14 (2) The postsecondary educational institution grants to an  
15 alien who lacks lawful immigration status in the United States  
16 the right to lawful presence or status on the campus of the  
17 postsecondary educational institution in violation of federal  
18 law. However, this subdivision does not apply if the alien has  
19 been granted Deferred Action for Childhood Arrival (DACA)  
20 status and the alien's DACA status remains valid.
- 21 (3) The postsecondary educational institution brings in or  
22 harbors an alien in violation of Section 274(a)(1)(A) of the  
23 Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)).
- 24 (4) Except as provided under IC 21-14-11-1, the  
25 postsecondary educational institution renders an alien who  
26 lacks lawful immigration status in the United States eligible  
27 for any postsecondary education benefit provided on the basis  
28 of residence within Indiana to the same extent that a citizen of  
29 the United States is eligible.
- 30 (5) The postsecondary educational institution denies the  
31 United States Department of Homeland Security access to the  
32 campus of the postsecondary educational institution or access  
33 to students of the postsecondary educational institution, for  
34 purposes of United States Department of Homeland Security  
35 recruiting in a manner that is at least equal in quality and  
36 scope to the access to campuses and to students that is  
37 provided to any other employer.
- 38 (6) The postsecondary educational institution limits the  
39 postsecondary educational institution's cooperation or  
40 compliance with detainers or other requests from United  
41 States Immigration and Customs Enforcement to maintain  
42 custody of an alien or to transfer an alien to the custody of the



1 **United States Immigration and Customs Enforcement.**

2 **(b) The term does not include a formal or informal policy of a**  
 3 **postsecondary educational institution under which an employee of**  
 4 **the postsecondary educational institution may decline, with respect**  
 5 **to an individual who comes forward as a victim of a crime or a**  
 6 **witness to a crime, to:**

7 **(1) send to, receive from, maintain, or exchange with any**  
 8 **federal, state, or local governmental entity information**  
 9 **regarding the citizenship or immigration status of the**  
 10 **individual; or**

11 **(2) comply with a request made by the United States**  
 12 **Department of Homeland Security under Section 236 or**  
 13 **Section 287 of the Immigration and Nationality Act (8 U.S.C.**  
 14 **1226 or 8 U.S.C. 1357) to:**

15 **(A) comply with a detainer for the individual; or**

16 **(B) provide notification regarding the release of the**  
 17 **individual.**

18 SECTION 3. IC 5-2-18.2-3, AS ADDED BY P.L.171-2011,  
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2017]: Sec. 3. A governmental body **and a postsecondary**  
 21 **educational institution** may not enact or implement an ordinance, a  
 22 resolution, a rule, or a policy that prohibits or in any way restricts  
 23 another governmental body **or employee of a postsecondary**  
 24 **educational institution**, including a law enforcement officer, a state or  
 25 local official, or a state or local government employee, from taking the  
 26 following actions with regard to information of the citizenship or  
 27 immigration status, lawful or unlawful, of an individual:

28 (1) Communicating or cooperating with federal officials.

29 (2) Sending to or receiving information from the United States  
 30 Department of Homeland Security.

31 (3) Maintaining information.

32 (4) Exchanging information with another federal, state, or local  
 33 government entity.

34 SECTION 4. IC 5-2-18.2-4, AS ADDED BY P.L.171-2011,  
 35 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2017]: Sec. 4. A governmental body **and a postsecondary**  
 37 **educational institution** may not limit or restrict the enforcement of  
 38 federal immigration laws to less than the full extent permitted by  
 39 federal law.

40 SECTION 5. IC 5-2-18.2-4.5 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2017]: **Sec. 4.5. (a) A postsecondary**



1 educational institution with a campus in Indiana may not have a  
2 sanctuary policy.

3 (b) If a postsecondary educational institution that is a state  
4 educational institution (as defined in IC 21-7-13-32) violates this  
5 section, the budget agency, after an advisory recommendation  
6 from the budget committee, may withhold funds appropriated by  
7 the general assembly to the postsecondary educational institution  
8 in an amount determined appropriate by the budget agency to  
9 bring the postsecondary educational institution into compliance  
10 with this section.

11 SECTION 6. IC 5-2-18.2-5, AS ADDED BY P.L.171-2011,  
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2017]: Sec. 5. If a governmental body **or a postsecondary**  
14 **educational institution** violates this chapter, a person lawfully  
15 domiciled in Indiana may bring an action to compel the governmental  
16 body **or postsecondary educational institution** to comply with this  
17 chapter.

18 SECTION 7. IC 5-2-18.2-6, AS ADDED BY P.L.171-2011,  
19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2017]: Sec. 6. If a court finds that a governmental body **or**  
21 **postsecondary educational institution** knowingly or intentionally  
22 violated section 3, **or 4, or 4.5** of this chapter, the court shall enjoin the  
23 violation.

24 SECTION 8. IC 5-2-18.2-9 IS ADDED TO THE INDIANA CODE  
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2017]: Sec. 9. **This chapter does not affect the eligibility of an**  
27 **individual described in IC 21-14-11-1(a) to pay the resident tuition**  
28 **rate (as determined by the state educational institution (as defined**  
29 **in IC 21-7-13-32)).**



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 423, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, delete "(a)".

Page 2, line 17, after "law." insert "**However, this subdivision does not apply if the alien has been granted Deferred Action for Childhood Arrival (DACA) status and the alien's DACA status remains valid.**".

Page 2, line 21, delete "(3)" and insert "**(4)**".

Page 2, line 27, delete "(4)" and insert "**(5)**".

Page 2, line 35, delete "(5)" and insert "**(6)**".

and when so amended that said bill do pass.

(Reference is to SB 423 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 2.

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 SENATE MOTION

Madam President: I move that Senate Bill 423 be amended to read as follows:

Page 1, delete lines 1 through 6, begin a new paragraph and insert: "SECTION 1. IC 5-2-18.2-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 2.2. As used in this chapter, "postsecondary educational institution" refers to any state educational institution (as defined in IC 21-7-13-32) or private postsecondary educational institution that receives state or federal funds.**".

Page 1, line 9, after "2.4." insert "**(a)**".

Page 1, line 16, after "(A)" insert "**lawfully**".

Page 2, line 7, delete "and" and insert "**or**".

Page 2, line 25, delete "a".

Page 2, after line 42, begin a new paragraph and insert:

**"(b) The term does not include a formal or informal policy of a postsecondary educational institution under which an employee of**

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the postsecondary educational institution may decline, with respect to an individual who comes forward as a victim of a crime or a witness to a crime, to:

(1) send to, receive from, maintain, or exchange with any federal, state, or local governmental entity information regarding the citizenship or immigration status of the individual; or

(2) comply with a request made by the United States Department of Homeland Security under Section 236 or Section 287 of the Immigration and Nationality Act (8 U.S.C. 1226 or 8 U.S.C. 1357) to:

(A) comply with a detainer for the individual; or

(B) provide notification regarding the release of the individual."

Page 3, line 6, after "body" delete "," and insert "**or employee of a postsecondary educational institution,**".

Page 3, between lines 21 and 22, begin a new paragraph and insert:  
**"SECTION 5. IC 5-2-18.2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4.5. (a) A postsecondary educational institution with a campus in Indiana may not have a sanctuary policy.**

**(b) If a postsecondary educational institution that is a state educational institution (as defined in IC 21-7-13-32) violates this section, the budget agency, after an advisory recommendation from the budget committee, may withhold funds appropriated by the general assembly to the postsecondary educational institution in an amount determined appropriate by the budget agency to bring the postsecondary educational institution into compliance with this section."**

Page 3, line 33, after "3" insert ",".

Page 3, line 33, strike "or".

Page 3, line 33, after "4" insert "**, or 4.5**".





Page 3, line 37, delete "may not be construed to restrict an" and insert "**does not affect the eligibility of an individual described in IC 21-14-11-1(a) to pay the resident tuition rate (as determined by the state educational institution (as defined in IC 21-7-13-32)).**".

Page 3, delete lines 38 through 42.

Delete page 4.

Renumber all SECTIONS consecutively.

(Reference is to SB 423 as printed February 24, 2017.)

SANDLIN

