

2016 Regular Session

HOUSE BILL NO. 453

BY REPRESENTATIVES JAY MORRIS, AMEDEE, BACALA, BAGLEY, EDMONDS, EMERSON, FALCONER, GAROFALO, LANCE HARRIS, HAZEL, HENRY, HODGES, HOFFMANN, HORTON, IVEY, MIKE JOHNSON, MACK, MIGUEZ, PEARSON, PYLANT, SEABAUGH, AND ZERINGUE

ALIENS/ILLEGAL: Provides relative to the role of local governments with respect to immigration enforcement

1 AN ACT

2 To enact Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 49:1401 through 1403, relative to immigration; to provide relative to the
4 authority of local governmental subdivisions; to provide for restrictions; to provide
5 relative to law enforcement duties; to provide for a cause of action; to provide for
6 damages; to provide for standing; to provide for venue; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 49:1401 through 1403, is hereby enacted to read as follows:

11 §1401. Immigration status of individuals; restrictions on local government

12 No governing authority or official of a local governmental subdivision may
13 adopt or enforce any ordinance, policy, or regulation that does any of the following
14 or requires a law enforcement agency to adopt a policy that does any of the
15 following:

16 (1) Prohibits a peace officer or other local officer, official, or employee from
17 communicating or cooperating with federal immigration officials concerning the
18 immigration status of an individual in this state.

1 (2) Limits any investigation by a peace officer into the immigration status
2 of a suspect, arrestee, or other person in custody with whom he comes into contact.

3 (3) Declines to honor a request made by federal immigration officials to hold
4 a person in custody until federal immigration officials assume custody of the person.

5 §1402. Suit for damages; mandamus

6 A.(1) A governing authority or an official of a local governmental
7 subdivision who violates the provisions of R.S. 49:1401, shall be liable to any person
8 who is legally in the United States and who suffers injury, death, or other damages,
9 including all costs and reasonable attorney fees, which are caused by a person who
10 was not detained or held in custody due to an ordinance, policy, or regulation
11 adopted or enforced in contravention of the provisions of this Chapter. Any official
12 or employee of a local governmental subdivision who violates the provisions of R.S.
13 49:1401(A) shall not be individually liable for any injury, death, or other damages
14 resulting from the violation.

15 (2) It shall be the authority of the attorney general to recover from a
16 governing authority or an official of a local government subdivision who violates this
17 Chapter all state expended costs associated with the tortious act or omissions of a
18 person who was not detained or held in custody due to an ordinance, policy, or
19 regulation adopted or enforced in contravention of the provisions of this Chapter.

20 B. The attorney general and any citizen residing in the jurisdiction of a
21 governing authority which violates the provisions of this Chapter shall have standing
22 to bring a petition for a writ of mandamus directing the governing authority to
23 comply with the provisions of this Chapter. If the court grants the writ of
24 mandamus, the attorney general or citizen bringing the petition is entitled to recover
25 all costs and reasonable attorney fees.

26 C. Venue of an action brought pursuant to this Section shall be proper in
27 district court where the governing authority is located or in the Nineteenth Judicial
28 District Court in the parish of East Baton Rouge.

1 §1403. Purpose

2 The provisions of this Chapter are intended to provide for the safety and
3 welfare of the citizens of this state, and refusal or failure of the governing authority
4 of a local governmental subdivision, or law enforcement agency, to comply with the
5 provisions of this Chapter shall be deemed to be a violation of the police powers of
6 the state as provided in Article I, Section 1 and Article VI, Section 9 of the Louisiana
7 Constitution.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 453 Reengrossed

2016 Regular Session

Jay Morris

Abstract: Provides for the cooperation of local governing authorities and law enforcement agencies in the enforcement of federal immigration laws and provides for civil remedies for failure to do so.

Proposed law prohibits local governing authorities and officials from adopting or enforcing the following types of ordinances:

- (1) Prohibits local officers, officials, and employees from communicating or cooperating with federal immigration officials.
- (2) Limits law enforcement investigations into the immigration status of a suspect, arrestee, or other person in custody.
- (3) Declines to honor a request by federal immigration officials to hold a person in custody until federal officials can assume custody.

Proposed law provides for a cause of action for injuries caused by a person who should have been detained for his immigration status, but was not in violation of proposed law. Provides for the award of damages, including attorney fees and costs. Provides that the attorney general or certain citizens may petition for a writ of mandamus, and provides for the recovery of attorney fees and costs.

Proposed law allows the attorney general to recover from a governing authority or official of a local government subdivision who has a policy in contravention of proposed law all state expended costs associated with the tortious acts or omissions of a person who should have been detained but was not detained based on a policy in violation of proposed law.

Proposed law provides that any official or employee of a local governmental subdivision will not be individually liable for violations of proposed law.

(Adds R.S. 49:1401-1403)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Provide that a local governing authority or official cannot adopt a policy that limits law enforcement investigations into the immigration status of a suspect, arrestee, or other person in custody.
2. Remove the provisions creating a duty of a peace officer to report the immigration status of a person under arrest to the U.S. Immigration and Customs Enforcement Office.
3. Remove liability provisions applicable to law enforcement agencies.
4. Allow the attorney general to recover all state expended funds from a governing authority or official associated with a person who should have been detained but was not due to a policy that was in contravention of proposed law.
5. Remove the provisions dealing with fiscal sanctions for violations of a court ordered writ of mandamus or proposed law.
6. Add that the attorney general has standing to bring a writ of mandamus.
7. Make technical amendments.

The House Floor Amendments to the engrossed bill:

1. Add a provision that any official or employee of a local governmental subdivision will not be individually liable for violations of proposed law.
2. Make technical amendments.