

SENATE BILL NO. 208

BY SENATOR MIGUEZ AND REPRESENTATIVES AMEDEE, BACALA, BAYHAM, BILLINGS, BOYER, CARRIER, CHENEVERT, COX, DICKERSON, EDMONSTON, EGAN, FIRMENT, HORTON, OWEN, THOMPSON, WRIGHT AND WYBLE

1 AN ACT

2 To enact Part III of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 33:81 through 85, relative to sanctuary policies for illegal
4 immigration; to provide with respect to prohibition on sanctuary policies; to provide
5 relative to local governments' required cooperation with federal immigration
6 authorities; to provide relative to duties related to immigration detainees; to provide
7 relative to enforcement; to provide for definitions; to provide for an effective date;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part III of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 33:81 through 85, is hereby enacted to read as follows:

12 **PART III. PROHIBITION ON SANCTUARY POLICIES FOR**
13 **ILLEGAL IMMIGRATION**

14 **§81. Definitions**

15 **For the purposes of this Part, the following words and terms shall have**
16 **the meaning indicated unless the context clearly indicates differently:**

17 **(1) "Federal immigration agency" means either the United States**
18 **Department of Justice or the United States Department of Homeland Security,**
19 **a division within either agency, including but not limited to United States**
20 **Immigration and Customs Enforcement and United States Customs and Border**
21 **Protection, any successor agency, and any other federal agency charged with the**
22 **enforcement of immigration law.**

23 **(2)(a) "Immigration detainer" means a facially sufficient written or**

1 electronic request issued by a federal immigration agency using that agency's
2 official form to request that another law enforcement agency detain a person
3 based on probable cause to believe that the person to be detained is a removable
4 alien under federal immigration law, including but not limited to detainers
5 issued pursuant to 8 U.S.C. 1226 and 1357, along with a warrant described in
6 Item (b)(iii) of this Paragraph.

7 (b) For purposes of this Part, an immigration detainer is deemed facially
8 sufficient if any of the following circumstances apply:

9 (i) The federal immigration agency's official form is complete and
10 indicates on its face that the federal immigration official has probable cause to
11 believe that the person to be detained is a removable alien under federal
12 immigration law.

13 (ii) The federal immigration agency's official form is incomplete and fails
14 to indicate on its face that the federal immigration official has probable cause
15 to believe that the person to be detained is a removable alien under federal
16 immigration law, but is supported by an affidavit, order, or other official
17 documentation that indicates that the federal immigration agency has probable
18 cause to believe that the person to be detained is a removable alien under
19 federal immigration law.

20 (iii) The federal immigration agency supplies, with its detention request,
21 a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of
22 Removal/Deportation or a successor warrant or other warrant authorized by
23 federal law.

24 (3) "Detainee" means an alien in the custody of a law enforcement
25 agency.

26 (4) "Law enforcement agency" means an agency in this state charged
27 with enforcement of state, parish, municipal, or federal laws or with managing
28 custody of detained aliens in this state and includes municipal police
29 departments, sheriff's offices, state police offices, state university and college
30 police departments, parish correctional agencies, and the Department of Public

1 **Safety and Corrections.**

2 **(5) "Local governmental entity" means any parish, municipality, or**
3 **other political subdivision of this state.**

4 **(6) "Sanctuary policy" means a law, policy, practice, procedure, or**
5 **custom adopted or allowed by a state entity or local governmental entity which**
6 **prohibits or impedes a law enforcement agency from complying with 8 U.S.C.**
7 **1373 or which prohibits or impedes a law enforcement agency from**
8 **communicating or cooperating with a federal immigration agency so as to limit**
9 **that law enforcement agency in, or prohibit the agency from any of the**
10 **following:**

11 **(a) Complying with an immigration detainer.**

12 **(b) Complying with a request from a federal immigration agency to**
13 **notify the agency before the release of a detainee in the custody of the law**
14 **enforcement agency.**

15 **(c) Providing a federal immigration agency access to a detainee for**
16 **interview.**

17 **(d) Participating in any program or agreement authorized under 8**
18 **U.S.C. 1357.**

19 **(e) Providing a federal immigration agency with a detainee's**
20 **incarceration status or release date.**

21 **(7) "State entity" means the state or any office, board, bureau,**
22 **commission, department, branch, division, or institution thereof, including state**
23 **public colleges and universities.**

24 **§82. Sanctuary policies prohibited**

25 **A state entity, law enforcement agency, or local governmental entity may**
26 **not adopt or have in effect a sanctuary policy.**

27 **§83. Cooperation; federal immigration authorities**

28 **A. A law enforcement agency shall use best efforts to support the**
29 **enforcement of federal immigration law. This Section applies to an official,**
30 **representative, agent, or employee of the entity or agency only when he is acting**

1 within the scope of his official duties or within the scope of his employment.

2 B. For purposes of this Part, a state entity, local governmental entity, or
3 law enforcement agency, or an employee, an agent, or a representative of the
4 entity or agency shall not prohibit or in any way restrict a law enforcement
5 agency from taking any of the following actions with respect to information
6 regarding an alien's immigration status, except as otherwise expressly
7 prohibited by federal law:

8 (1) Sending the information to or requesting, receiving, or reviewing the
9 information from a federal immigration agency.

10 (2) Recording and maintaining the information.

11 (3) Exchanging the information with a federal immigration agency or
12 another state entity, local governmental entity, or law enforcement agency.

13 (4) Using the information to comply with an immigration detainer.

14 (5) Using the information to confirm the identity of a detainee by a law
15 enforcement agency.

16 C. For purposes of this Section, the term "applicable criminal case"
17 means a criminal case in which all of the following occur:

18 (1) The judgment requires the defendant alien to be confined in a secure
19 correctional facility.

20 (2) The judge indicates in the record that the defendant alien is subject
21 to an immigration detainer or otherwise indicates in the record that the
22 defendant alien is subject to a transfer into federal custody.

23 D. In an applicable criminal case, when the judge sentences a defendant
24 alien who is the subject of an immigration detainer to confinement, the judge
25 shall issue an order requiring the secure correctional facility in which the
26 defendant alien shall be confined to reduce the defendant alien's sentence by a
27 determinate period of not more than twelve days on the facility's determination
28 that the completion of sentence will facilitate the seamless transfer of the
29 defendant alien into federal custody.

30 E. If the information specified in Subsection B of this Section is not

1 available at the time the sentence is imposed in the case, but is received by a law
2 enforcement agency afterwards, the law enforcement agency shall notify the
3 judge who shall issue the order described by Subsection D of this Section as
4 soon as the information becomes available.

5 F. A state entity, local governmental entity, or law enforcement agency
6 that, pursuant to Subsection H of this Section, withholds information regarding
7 the immigration information of a victim or witness to a criminal offense shall
8 document the victim's or witness's cooperation in the entity's or agency's
9 investigative records related to the offense and shall retain the records for at
10 least ten years for the purpose of audit, verification, or inspection by the
11 legislative auditor.

12 G. When a parish correctional facility or the Department of Public
13 Safety and Corrections receives verification from a federal immigration agency
14 that a detainee subject to an immigration detainer is in the law enforcement
15 agency's custody, the agency may securely transport the detainee to a federal
16 facility in this state or to another point of transfer to federal custody outside the
17 jurisdiction of the law enforcement agency. The law enforcement agency may
18 transfer a detainee who is subject to an immigration detainer and is confined
19 in a secure correctional facility to the custody of a federal immigration agency
20 not earlier than twelve days before his release date. A law enforcement agency
21 shall obtain state judicial authorization before securely transporting the
22 detainee to a point of transfer outside of this state.

23 H. This Section shall not require a state entity, local governmental entity,
24 or law enforcement agency to provide a federal immigration agency with
25 information related to a victim or a witness to a criminal offense if the victim
26 or witness timely and in good faith responds to the entity's or agency's request
27 for information and cooperation in the investigation or prosecution of the
28 offense.

29 I. This Section shall not authorize a law enforcement agency to detain an
30 alien unlawfully present in the United States pursuant to an immigration

1 detainer solely because the alien witnessed or reported a crime or was a victim
2 of a criminal offense.

3 J. This Section shall not apply to any alien unlawfully present in the
4 United States if he is or has been a necessary witness or victim of a state or
5 federal crime of domestic violence, rape, sexual exploitation, sexual assault,
6 murder, manslaughter, assault, battery, human trafficking, kidnapping, false
7 imprisonment, involuntary servitude, fraud in foreign labor contracting,
8 blackmail, extortion, or witness tampering.

9 §84. Duties; immigration detainers

10 A. A law enforcement agency that has custody of a detainee subject to an
11 immigration detainer issued by a federal immigration agency shall perform all
12 of the following:

13 (1) Provide to the judge authorized to grant or deny the detainee's
14 release on bail notice that the detainee is subject to an immigration detainer.

15 (2) Record in the detainee's case file that the detainee is subject to an
16 immigration detainer and comply with the requests made in the immigration
17 detainer.

18 B. A law enforcement agency shall not be required to perform a duty
19 imposed by this Section with respect to a detainee who is transferred to the
20 custody of the agency by another law enforcement agency if the transferring
21 agency performed that duty prior to the transfer.

22 C. A judge who receives notice that a detainee is subject to an
23 immigration detainer shall cause the fact to be recorded in the minute entry,
24 regardless of whether the notice is received before or after a judgment in the
25 case.

26 D. Each parish correctional facility shall enter into an agreement or
27 agreements with a federal immigration agency for temporarily housing
28 detainees who are the subject of immigration detainers and for the payment of
29 the costs of housing and detaining those detainees. A compliant agreement may
30 include any contract between a correctional facility and a federal immigration

1 agency for housing or detaining detainees subject to immigration detainers,
2 such as basic ordering agreements in effect on or after July 1, 2019, agreements
3 authorized by 8 U.S.C. 1357, or successor agreements and other similar
4 agreements authorized by federal law.

5 **§85. Enforcement**

6 **A. The attorney general, in consultation with the governor, may file suit**
7 **against a local governmental entity or local law enforcement agency in the**
8 **Nineteenth Judicial District for declaratory or injunctive relief for a violation**
9 **of this Part.**

10 **B. If a local governmental entity or local law enforcement agency is**
11 **found by the trial court to have violated this Part, the court shall enjoin the**
12 **unlawful sanctuary policy. The court shall have continuing jurisdiction over the**
13 **parties and subject matter and may enforce its orders with the initiation of**
14 **contempt proceedings as provided by law.**

15 **C. An order approving a consent decree or granting an injunction shall**
16 **include written findings of fact that describe with specificity the existence and**
17 **nature of the sanctuary policy that violates this Part.**

18 Section 2. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____