

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

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HOUSE BILL NO. 1158

Introduced by: Representatives Craig, Bolin, Campbell, DiSanto, Greenfield (Lana), Heinemann (Leslie), Klumb, Latterell, Marty, May, Munsterman, Novstrup (Al), Rasmussen, Russell, Schaefer, Stalzer, Verchio, Werner, Wiik, and Zikmund and Senators Rampelberg, Bradford, Greenfield (Brock), Holien, Jensen (Phil), Novstrup (David), and Olson

1 FOR AN ACT ENTITLED, An Act to provide for state coordination in the resettlement of
2 refugees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Terms in this Act mean:

6 (1) "Local government" or "local governments," either the city council, governing body
7 of any county, or county legislative body that regulates any host community being
8 considered for refugee resettlement activity;

9 (2) "Local educational agency,"

10 (a) A public board of education or other public authority legally constituted within
11 a state for either administrative control of or direction of, or to perform service
12 functions for, public elementary or secondary schools in:

13 (i) A city, county, township, school district, or other political subdivision



1 of a state; or

2 (ii) A combination of school districts or counties a state recognizes as an
3 administrative agency for its public elementary or secondary schools;
4 or

5 (b) Any other public institution or agency that has administrative control and
6 direction of a public elementary or secondary school;

7 (3) "Refugee resettlement organization," any organization that receives federal funding
8 for refugee resettlement;

9 (4) "State office for refugees," the state office within the Department of Social Services
10 that administers the refugee program for this state, or the entity or agency to whom
11 the state has delegated such function as a replacement designee and that has been
12 designated and recognized by the federal government to administer the program; and

13 (5) "State refugee coordinator," is head of the state office for refugees.

14 Section 2. That the code be amended by adding a NEW SECTION to read:

15 For purposes of this Act, the term, absorptive capacity, is a determination made by the
16 Governor or a local government evaluating:

17 (1) The capacity of the social service agencies, child welfare agencies, child care
18 facilities, educational facilities, healthcare facilities, translation and interpreter
19 services, and law enforcement agencies of the state or in the jurisdiction of the local
20 government to meet the existing needs of the community's current residents
21 considering budgetary and other restraints;

22 (2) The capacity to provide medical care to refugees who at the time of resettlement in
23 the state or in the jurisdiction of the local government are determined to have medical
24 conditions requiring, or medical histories indicating a need for, treatment or

1 observation, or affecting the public health, both with or without expenditures under
2 this state's approved Medicaid state plan in accordance with section 1902(a)(10)(C)
3 of the Social Security Act, State Children's Health Insurance Program (SCHIP), or
4 other public assistance programs;

5 (3) The capacity to provide affordable housing, low-cost housing, or both, considering
6 existing waiting lists for such housing in the state or in the jurisdiction of the local
7 government;

8 (4) The capacity of the local school district in the jurisdiction of the local government
9 to meet the needs of the existing or anticipated refugee population, including
10 education of unaccompanied refugee children and provision of English language
11 training;

12 (5) The capacity of the economy of the state or in the jurisdiction of the local
13 government to absorb new workers, including the likelihood of refugees placed in the
14 jurisdiction of the local government becoming employed, self-sufficient and free
15 from long-term dependence on public assistance, without causing competition with
16 local residents for job opportunities, displacing existing local workers, or adversely
17 affecting the wages or working conditions of the local workforce;

18 (6) The capacity of state and local law enforcement in the jurisdiction of the local
19 government to assure that law and order can be maintained, and ensure that the
20 refugee population and the general public can be protected from crime, including:
21 child abuse, domestic abuse, and sex trafficking, as well as threats to national
22 security; and

23 (7) The capacity of the state and local government to provide services considering
24 whether the jurisdiction of the local government has been highly impacted by the

1 presence of refugees or comparable populations, including the proportion of refugees
2 and comparable entrants in the population in the state or in the jurisdiction of the
3 local government, the amount of secondary migration of refugees to the state or to
4 the jurisdiction of the local government, and the proportion of refugees in the state
5 or in the jurisdiction of the local government receiving cash or medical assistance
6 through public assistance.

7 Section 3. That the code be amended by adding a NEW SECTION to read:

8 The state office for refugees and any refugee resettlement organization shall:

- 9 (1) Meet at least quarterly with representatives of local governments to plan and
10 coordinate the appropriate placement of refugees in advance of the refugees' arrival;
- 11 (2) Ensure that representatives of local resettlement agencies, local community service
12 agencies, and other publicly-funded or tax-exempt agencies that serve refugees in this
13 state meet at least quarterly with representatives of local governments, including
14 representatives of law enforcement and local educational agencies, to plan and
15 coordinate the appropriate placement of refugees in the host community in advance
16 of the refugees' arrival;
- 17 (3) Execute a letter of agreement with each agency providing refugee resettlement
18 services in this state. The letter of agreement shall require the parties to mutually
19 consult and prepare a plan for the initial placement of refugees in a host community
20 and set forth the continuing process of consultation between the parties. The
21 provisions of the letter agreement shall be consistent with federal law regulating the
22 resettlement of refugees; and
- 23 (4) Transmit at least quarterly, copies of the letters of agreement and any initial refugee
24 placement plans prepared thereunder to the chairman of the house and senate

committees on State Affairs of the Legislature respectively, to the chairman of the budget committee of the local government hosting the host refugee community, the secretary of the Department of Public Safety, to the attorney general, to the head of all affected local law enforcement agencies in the state, and to the head of all local educational agencies in the state;

(5) Transmit at least annually, and at least within thirty days of the close of the year, to the chairman of the house and senate committees on State Affairs of the Legislature respectively, to the chairman of the budget committee of the local government hosting the host refugee community, to the secretary of the Department of Public Safety, to the attorney general, to the head of all affected local law enforcement agencies in the state, and to the head of all affected local educational agencies in the state:

(a) Copies of statistical and programmatic information provided to the federal government;

(b) Copies of the written policies of the refugee cash assistance program, including agency policies regarding eligibility standards, the duration and amount of cash assistance payments, the requirements for participation in services, the penalties for non-cooperation, and client rights and responsibilities to ensure that refugees understand what they are eligible for, what is expected of them, and what protections are available to them;

(c) Copies of any written public or private refugee cash assistance program operating at any time in the calendar year;

(d) A report documenting the number of refugees sanctioned for failure to comply with the requirements of the refugee cash assistance program, and the number

1 of determinations concerning employability, or failure or refusal to carry out
2 job search or to accept an appropriate offer of employability services or
3 employment, resulting in denial or termination of assistance;

4 (e) A certification that women have the same opportunities as men to participate
5 in all services provided, including job placement services;

6 (f) Any report of crime committed by a refugee who has been resettled in the
7 state, or crime committed against a refugee who has been resettled in the state,
8 whether prosecuted or not; and

9 (g) A report delineating:

10 (i) The total number of refugees resettled;

11 (ii) The total number of refugees under the age of eighteen resettled;

12 (iii) The total number of refugees between the ages of eighteen and forty
13 resettled;

14 (iv) The total number of refugees between the ages of forty and sixty-five
15 resettled;

16 (v) The total number of refugees over the age of sixty-five resettled;

17 (vi) The total number of refugees who are women and men, respectively;

18 (vii) The public assistance benefit programs that the refugees have applied
19 for or enrolled into;

20 (viii) The total number of refugee minors enrolled in public schools;

21 (ix) The total of refugee minors accessing English language learner services.

22 Section 4. That the code be amended by adding a NEW SECTION to read:

23 (1) The state office for refugees shall accept an application from a local government for
24 a moratorium on new refugee resettlement activities in a host community that lacks

1 sufficient absorptive capacity;

2 (2) A host community lacks sufficient absorptive capacity where the local government,
3 after consultation with the state refugee coordinator, holds a public hearing and issues
4 findings based on the factors in subdivision (1) of section 2 of this Act that further
5 resettlement of refugees in the host community would result in an adverse impact to
6 existing residents;

7 (3) Upon notice of a determination made pursuant to subdivision (2), the state office for
8 refugees shall suspend additional resettlement of refugees in that community, until
9 the state refugee coordinator and the local government have jointly determined that
10 sufficient absorptive capacity for refugee resettlement exists to implement the initial
11 refugee placement plan prepared for the host refugee community;

12 (4) The period of validity of a moratorium described in subdivision (1) of section 2 of
13 this Act or any extension of a moratorium may not exceed one year.

14 Section 5. That the code be amended by adding a NEW SECTION to read:

15 The Governor may issue findings based on the factors in subdivision (1) of section 2 of this
16 Act that further resettlement of refugees in the state would result in an adverse impact to
17 existing residents of the state, and issue an executive order declaring that the state, through any
18 entity or designee, will not, until revocation of the executive order, participate in the
19 resettlement of refugees.

20 Section 6. Whereas, this Act is necessary for the immediate preservation of the public peace,
21 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
22 effect from and after its passage and approval.

23 Section 7. That the code be amended by adding a NEW SECTION to read:

24 There is hereby established the state office for refugees within the Department of Social

- 1 Services to carry out the provisions of this Act.