

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 677 (Delegate McDonough, *et al.*)  
Judiciary and Appropriations

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Counties and Municipal Corporations - "Sanctuary Laws" for Illegal Aliens -  
Prohibition

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This bill requires all officials, personnel, and agents of a county or municipal corporation to fully comply with and support the enforcement of federal law prohibiting the entry into or presence or residence in the United States of illegal aliens.

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Fiscal Summary

**State Effect:** Potential reduction in general fund expenditures beginning in FY 2013 to the extent that police aid is withheld from jurisdictions certified as not complying with the bill's provisions.

**Local Effect:** Potential reduction in police aid beginning in FY 2013 to the extent that jurisdictions are certified as not complying with the bill's provisions. **This bill imposes a mandate on local governments.**

**Small Business Effect:** None.

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Analysis

**Bill Summary:** A county or municipal corporation is prohibited from restricting its officials, personnel, or agents from requesting, obtaining, sending, or otherwise transmitting information on an individual's immigration status. Counties and municipal corporations must comply with the bill's requirements in a manner that is fully consistent with federal law and that protects the civil rights of U.S. citizens and aliens. The bill may not be construed to prevent a county or a municipal corporation from rendering

emergency medical care or any other benefit required by federal or State law or from reporting criminal activity to a law enforcement agency.

If the Executive Director of the Governor's Office of Crime Control and Prevention (GOCCP) finds that a county or municipal corporation is not complying with the bill's provisions, the executive director must notify the jurisdiction of noncompliance. If a jurisdiction disputes the finding within 30 days of the issuance of the notice, the dispute must then be referred to the Secretary of Budget and Management, who must make a final determination. Once either the executive director or Secretary of Budget and Management certify noncompliance, the Comptroller is required to suspend the amount of police aid in the current fiscal year which exceeds what was paid to the jurisdiction in the prior fiscal year.

**Current Law:** Federal law does not mandate that state and local law enforcement agencies become involved in immigration efforts. The extent to which local law enforcement and the State police participate in immigration-related matters varies among jurisdictions.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added Section 287(g), performance of immigration officer functions by state officers and employees, to the Immigration and Nationality Act. This program authorizes state and local law enforcement agencies to enter into an agreement with the U.S. Immigration and Customs Enforcement (ICE) to perform immigration law enforcement functions, provided that the local law enforcement officers receive appropriate training and function under the supervision of ICE officers.

**Background:** Immigration policy is increasingly becoming a topic of interest for many people in Maryland and throughout the nation. With comprehensive immigration reform stalled at the federal level, State and local officials are being asked to address various issues relating to immigration and, in particular, the perceived effects of unauthorized immigration. Foreign residents who live in the United States without obtaining proper authorization from the federal government are considered unauthorized immigrants. These individuals can be categorized into two primary groups: those who enter the country without approval from national immigration authorities; or those who violate the terms of a temporary admission without obtaining either permanent resident status or temporary protection from removal. Other terms used to reference this group include unauthorized aliens, illegal immigrants, and undocumented immigrants.

### *International Immigration in Maryland*

Maryland remains an attractive State for immigrants, due in part to its proximity to the nation's capital and its relatively strong business climate in comparison to other states.

International immigration added nearly 200,000 people to the State's population between 2000 and 2009. This was the thirteenth largest gain from immigration among all states during that period. From 2000 to 2009, Maryland accounted for 2% of the total national population gain from international immigration.

A significant portion of Maryland's immigrants are not in lawful immigration status, according to estimates made by private research organizations. The Pew Hispanic Center, which does not take positions on policy issues, estimated that, there were 250,000 unauthorized immigrants in the State in 2009, with a range of between 210,000 and 300,000. Maryland had the tenth highest number of such immigrants among the states that year, according to the center. The Center for Immigration Studies, which advocates reducing immigration, estimated that, in 2007, there were 268,000 immigrants in Maryland who were not in lawful immigration status. This estimate was based on an analysis of data from the U.S. Census Bureau's *2007 Current Population Survey*.

### *Sanctuary Policies*

Local officials in some communities across the nation have adopted "sanctuary" policies. These policies prohibit city employees and police officers from asking individuals about their citizenship or immigration status. In these communities, public services are provided to individuals regardless of their immigration status; local officials, including law enforcement officers, are not permitted to use funding or resources to assist the federal government with enforcing immigration laws. According to the Congressional Research Service, both Oregon and Alaska have adopted statewide sanctuary policies. In Maryland, two jurisdictions have adopted sanctuary policies: Baltimore City and Takoma Park.

### *Baltimore City Policy*

Baltimore City is the only large jurisdiction in Maryland that has adopted a sanctuary-type resolution that specifically urges the city police department to refrain from enforcing federal immigration laws. In addition, the resolution states that no city service will be denied based on citizenship. The resolution, a criticism of the broader surveillance powers granted to law enforcement by the U.S. Patriot Act, was adopted in May 2003.

Baltimore City adopted another resolution in May 2010 in response to legislation enacted in Arizona that criminalizes unauthorized immigration. The resolution specifies that the Baltimore City Council "opposes the introduction of anti-immigration law in Maryland that criminalizes immigration and encourages racial profiling; requests the Baltimore City Senate and House Delegations to the 2011 Maryland General Assembly to oppose the

legislation if introduced; and urges the Governor to veto this legislation, or similar measures, if passed by the Maryland State Legislature.”

### *Takoma Park Policy*

Takoma Park, located in Montgomery County, enacted a sanctuary law in 1985 to protect numerous refugees from El Salvador and Guatemala from being deported to their homelands, which were in a state of civil war at the time. Three main components of the city’s sanctuary law include (1) prohibiting city officials from enforcing federal immigration laws; (2) prohibiting inquiries into an individual’s citizenship status; and (3) prohibiting the release of information pertaining to an individual’s citizenship status. In October 2007, the city’s sanctuary law was unanimously reaffirmed by the city council.

According to city officials, the Takoma Park police department neither inquires nor records information about an individual’s immigration status. Police officers do not serve federal immigration orders, detainers, or warrants for violations of immigration or naturalization laws. Police officers, however, are not restricted from arresting someone who is suspected of criminal activity or who is subject to an outstanding nonimmigration-related criminal warrant. The city’s sanctuary law, however, is not binding on State or county police officers. The Montgomery County police department advises that it closely coordinates investigations with the city police department and provides assistance when requested. If a county level investigation requires county police officers to enter Takoma Park, the county department has the authority to do so and to conduct the investigation in a way that is consistent with county policy, as well as State and federal law.

**State and Local Fiscal Effect:** To the extent that the Executive Director of GOCCP or the Secretary of Budget and Management certify that local governments have not complied with the provisions of this bill, the Comptroller will be required to withhold the increase in police aid that otherwise would have been allocated to the jurisdiction in the fiscal year that the certification takes place. Although Chapter 484 of 2010 (the Budget Reconciliation and Financing Act of 2010) included a provision that level funded State Aid for Police Protection grants (police aid formula) at \$45.4 million in fiscal 2011 and 2012, beginning in fiscal 2013, any local government that is certified as noncompliant with the provisions of the bill will lose any funding increase that would have otherwise been provided. There will be a corresponding savings in general fund expenditures.

**Additional Comments:** Legislative Services prepared a report in January 2008 titled *International Immigration: The Impact on Maryland Communities* that provides an overview of the legal and fiscal issues surrounding immigration and the effects it has on State and local communities. In preparing the report, Legislative Services either

interviewed or requested interviews with representatives of law enforcement agencies of the seven largest jurisdictions in Maryland regarding their policies on immigration-related issues. Local responses to these interviews are included in the report.

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### **Additional Information**

**Prior Introductions:** HB 486 of 2009 received an unfavorable report from the House Judiciary Committee. HB 735 of 2008 received an unfavorable report from the House Judiciary Committee. Its cross file, SB 421, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Baltimore City, Montgomery County, City of Bowie, Department of Budget and Management, Judiciary (Administrative Office of the Courts), Maryland Association of Counties, Maryland Municipal League, Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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