

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 735
Judiciary

(Delegate Miller, *et al.*)

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

This bill requires all local government officials, personnel, and agents to fully comply with and support the enforcement of federal laws prohibiting the entry into or presence in the United States of illegal aliens.

Fiscal Summary

State Effect: Potential reduction in general fund expenditures 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 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.

Analysis

Bill Summary: A local government is prohibited from restricting its officials, personnel, or agents from requesting, obtaining, sending, or otherwise transmitting information on an individual's immigration status. Local governments 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 local government 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 Secretary of State Police finds that a county or municipal corporation is not complying with the bill's provisions, the Secretary of State Police 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 Secretary of the State Police 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: State law does not require counties and municipal corporations to support the enforcement of federal immigration laws. State and local jurisdictions must comply with federal laws that provide civil rights and basic benefits to citizens, residents, and immigrants.

Background Local officials in many communities across the nation have adopted “sanctuary” policies that generally 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 assist the federal government with enforcing immigration laws. According to the Congressional Research Service, two states (Alaska and Oregon) and several cities (Albuquerque, Austin, Detroit, Houston, Los Angeles, Minneapolis, New York, San Diego, San Francisco, and Seattle) have adopted 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 (Resolution #030998) 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.

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.

Taneytown Policy

The debate over establishing sanctuary policies for undocumented immigrants came to Carroll County in 2007 when a resolution was introduced that would have designated the city as a nonsanctuary community. The resolution was designed to make undocumented immigrants unwelcome within the community. At present, the city is not a destination for immigrants or other minorities, with minorities comprising less than 5% of the city's population.

Specifically, the resolution stated that the City of Taneytown is not a sanctuary city for undocumented immigrants and called upon all officials and personnel of the city to assist residents to support the enforcement of immigration and nationality laws by government officials. The Taneytown City Council voted down the resolution in January 2008.

State and Local Fiscal Effect: To the extent that the Secretary of State Police or the Secretary of Budget and Management certify that local governments have not complied with the provisions of this bill, the Comptroller would 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. For example, the police aid appropriated to local governments in fiscal 2008 was \$65,931,447. The fiscal 2009 allowance is \$66,435,967, an increase of \$504,520. As a result, up to a total of \$504,520 in police aid could be withheld from local governments in fiscal 2009 if all were certified as not compliant with the provisions of this bill. There would 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. Topics discussed in this report include demographic trends, labor markets and wage effects, labor and employment law, state and local spending, and legislative actions. The report does not attempt to quantify the actual cost relating to undocumented immigration. Instead, the report provides an overview of the types of government services available to immigrants and the legal basis for providing such services. When possible, the fiscal effects on State and local governments are provided. An important finding from this study is that state and local governments are limited in their ability to deny services to immigrants, including those who are undocumented. State and local governments must provide certain services (*i.e.*, public K-12 education, emergency related health care, and law enforcement) to individuals regardless of their immigration status.

In preparing the report, Legislative Services (DLS) either interviewed or requested interviews with representatives of police departments of the seven largest jurisdictions in Maryland regarding their policies on immigration-related issues. Local responses to these interviews are included in the report.

Additional Information

Prior Introductions: None.

Cross File: SB 421 (Senator Kittleman, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): State’s Attorneys’ Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Maryland Municipal League, Department of State Police, Maryland Association of Counties, Office of the Attorney General, Department of Public Safety and Correctional Services, Carroll County, Harford County, Montgomery County, Prince George’s County, Queen Anne’s County, St. Mary’s County, City of Greenbelt, City of Hagerstown, City of Laurel, Town of La Plata, Town of Sykesville, Department of Legislative Services

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