

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1549 (Delegate W. Miller, *et al.*)
Judiciary and Appropriations

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

This bill requires all officials, personnel, and agents of a county or municipality 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.

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 county or municipality is prohibited from restricting its officials, personnel, or agents from requesting, obtaining, sending, receiving, exchanging, or maintaining information on an individual's immigration status. Counties and municipalities 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 municipality 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 municipality 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 certifies 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/Background:

Immigration Enforcement Efforts

While immigration is controlled by federal law, the Department of Homeland Security and the U.S. Immigration, Customs, and Enforcement Division (ICE) have initiated numerous programs that involve state and local law enforcement agencies as allies and additional resources. For example, one initiative, authorized under Section 287(g) of the Immigration and Naturalization Act, allows the Secretary of Homeland Security to enter into written agreements to delegate limited immigration enforcement authority to state and local law enforcement officers. In Maryland, the 287(g) program has been established in three jurisdictions – Anne Arundel, Frederick, and Harford counties. In 2008, the Frederick County Sheriff’s Office entered into a partnership with ICE to begin the 287(g) Criminal Alien Program within the county. This partnership entailed training office personnel from both the county detention center and law enforcement operations to become authorized to identify and begin deportation proceedings against undocumented immigrants. The Frederick County Sheriff’s Office is one of the few law enforcement offices nationwide that participate in both the jail enforcement program and the law enforcement task force program. In addition, detention centers in Anne Arundel and Harford counties participate in the 287(g) program.

Despite the President’s increased focus on undocumented immigrants, federal law still does not mandate that state and local law enforcement agencies become involved in immigration efforts.

Sanctuary Laws

“Sanctuary city” is a term applied to municipalities that have adopted policies limiting local cooperation with federal immigration authorities. Sanctuary cities and local adoption of sanctuary policies have made recent headlines in light of a January 25, 2017 federal executive order addressing immigration enforcement issues, including the use of state and local law enforcement and sanctuary jurisdictions. The U.S. Attorney General issued a memorandum in May 2017, stating that for purpose of addressing the executive order, the

term “sanctuary jurisdiction” refers only to jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373, which states in part that state and local jurisdictions “may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [federal immigration officers] information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”

According to the National Conference of State Legislatures, cities began adoption of sanctuary policies in 1989, with San Francisco being the first to enact such an ordinance. In 2017, at least 36 states considered legislation that would prohibit adoption of sanctuary policies or require noncompliance with immigration detainers. No State law specifically addresses the authority of Maryland local governments to adopt or reject sanctuary status.

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. The city’s sanctuary law, however, is not binding on State or county police officers.

State and Local Fiscal Effect: To the extent that the Executive Director of GOCCP or the Secretary of Budget and Management certifies 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. Local governments will receive \$73.7 million in police aid funding in fiscal 2018 and \$74.5 million in fiscal 2019. The annual funding increase under the police aid formula will total \$742,200 in fiscal 2019. A 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 would be a corresponding savings in general fund expenditures.

The Department of Legislative Services notes that this estimate does not take into account any potential changes at the federal level with respect to immigration policy. As noted above, state and local law enforcement agencies are currently not required to participate in immigration enforcement efforts. However, should federal law change to require participation by state and local law enforcement agencies, significant costs could incur depending on the actions required in order for jurisdictions to be deemed as fully compliant with and supporting the enforcement of federal immigration law.

Additional Information

Prior Introductions: HB 598 of 2017 received an unfavorable report from the House Judiciary Committee. HB 677 of 2011 received an unfavorable report from the House Judiciary Committee. Similar bills were also introduced in the 2009 and 2008 sessions.

Cross File: None.

Information Source(s): Baltimore, Dorchester, Garrett, and Montgomery counties; Comptroller's Office; Department of Budget and Management; National Conference of State Legislatures; U.S. Department of Justice; Department of Legislative Services

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