

As Amended by House Committee

Session of 2016

HOUSE BILL No. 2587

By Committee on Federal and State Affairs

2-2

1 AN ACT concerning immigration; relating to sanctuary policies and the  
2 prohibition thereof; relating to the duty of law enforcement to  
3 cooperate in immigration enforcement; **litigation against**  
4 **municipality, defense by attorney general, claim against the state.**

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) As used in this section:

8 (1) "Law enforcement officer" means any person who by virtue of  
9 office or public employment is vested by law with a duty to maintain  
10 public order and to make arrests for violation of the laws of the state of  
11 Kansas or the ordinances or resolutions of any municipality thereof.

12 (2) "Municipality" means a county or a city.

13 (3) "Municipality official" means any person holding a municipal  
14 office either by election or appointment, or any law enforcement officer  
15 employed by a municipality.

16 (4) "Sanctuary policy" means any order, ordinance, resolution or law  
17 enforcement policy, whether formally enacted or informally adopted, that:

18 (A) Limits or prohibits any municipality official or person employed  
19 by a municipality from communicating or cooperating with federal  
20 agencies or officials to verify or report the immigration status of any alien  
21 within such municipality;

22 (B) grants to aliens unlawfully present in the United States the right  
23 to lawful presence within the boundaries of a municipality in violation of  
24 federal law;

25 (C) violates any provision of 8 U.S.C. § 1373;

26 (D) restricts in any way, or imposes any conditions on, a  
27 municipality's cooperation or compliance with detainers or other requests  
28 from United States immigration and customs enforcement to maintain  
29 custody of any alien or to transfer any alien to the custody of United States  
30 immigration and customs enforcement;

31 (E) requires United States immigration and customs enforcement to  
32 obtain a warrant or demonstrate probable cause before complying with  
33 detainers or other requests from United States immigration and customs  
34 enforcement to maintain custody of any alien or to transfer any alien to the  
35 custody of United States immigration and customs enforcement; or

36 (F) prevents a municipality's law enforcement officers from inquiring

1 as to the citizenship or immigration status of any person.

2 (5) "State agency" means any state office or officer, department,  
3 board, commission, institution, bureau or any agency, division or unit  
4 within any office, department, board, commission or other state authority.

5 (b) No municipality shall enact or adopt any sanctuary policy. Any  
6 municipality that enacts or adopts a sanctuary policy shall be ineligible to  
7 receive any moneys that would otherwise be remitted to such municipality  
8 by a state agency. A municipality shall remain ineligible to receive such  
9 moneys until such time as the sanctuary policy is repealed or is no longer  
10 in effect.

11 (c) (1) The attorney general shall receive complaints regarding any  
12 violation of this section. Such complaints may be submitted by any  
13 resident of this state, and shall be submitted in writing in such form and  
14 manner as prescribed by the attorney general. In lieu of submitting a  
15 complaint, any member of the legislature may request, at any time, that the  
16 attorney general investigate and issue an opinion as to whether a  
17 municipality has enacted or adopted a sanctuary policy in violation of this  
18 section.

19 (2) Upon receiving a complaint or request, the attorney general shall  
20 investigate and determine whether a violation of this section has occurred.  
21 The attorney general shall issue an opinion stating whether the  
22 municipality, which is the subject of the complaint or request, has enacted  
23 or adopted a sanctuary policy in violation of this section. Upon the  
24 issuance of an opinion by the attorney general that a municipality has  
25 enacted or adopted a sanctuary policy in violation of this section, such  
26 municipality shall become ineligible to receive any moneys that would  
27 otherwise be remitted to such municipality by a state agency. Such  
28 ineligibility shall commence on the date such opinion is issued, and shall  
29 continue until such time as the attorney general certifies that the sanctuary  
30 policy is repealed or is no longer in effect.

31 (3) The attorney general shall send to the municipality that was the  
32 subject of the investigation and to the director of accounts and reports a  
33 copy of any opinion issued pursuant to this section and any certification by  
34 the attorney general that a sanctuary policy is repealed or no longer in  
35 effect.

36 (d) The governing body of each municipality, or the chief law  
37 enforcement officer thereof, shall provide each law enforcement officer  
38 with a printed copy of this section and written notice of such officer's duty  
39 to cooperate with state and federal agencies and officials on matters  
40 pertaining to the enforcement of state and federal laws governing  
41 immigration. Each state agency vested with law enforcement authority  
42 shall provide each law enforcement officer employed by such agency with  
43 a printed copy of this section and written notice of such officer's duty to

1 cooperate with state and federal agencies and officials on matters  
2 pertaining to the enforcement of state and federal laws governing  
3 immigration.

4 (e) No state agency shall enact or adopt a sanctuary policy.

5 (f) **If a city or county is a defendant in litigation arising from**  
6 **enforcing the federal immigration laws to the full extent permitted by**  
7 **federal law, the attorney general shall, at the request of the city or**  
8 **county, defend the city or county in the litigation. All costs incurred by**  
9 **the attorney general to defend a city or county as provided in this**  
10 **subsection, including payment of court costs, shall be paid from the**  
11 **state general fund.**

12 (g) **If a city or county incurs liability for enforcing the federal**  
13 **immigration laws to the full extent permitted by federal law, the city**  
14 **or county responsible for the costs incurred shall be reimbursed for**  
15 **such costs by filing a claim against the state pursuant to article 9 of**  
16 **chapter 46 of the Kansas Statutes Annotated, and amendments**  
17 **thereto.**

18 (h) On or before January 1, 2017, the attorney general shall adopt  
19 rules and regulations necessary to implement the provisions of this section.

20 Sec. 2. This act shall take effect and be in force from and after its  
21 publication in the statute book.