



State of Tennessee

PUBLIC CHAPTER NO. 973

HOUSE BILL NO. 2315

By Representatives Reedy, Terry, Jerry Sexton, Moody, Rogers, Matthew Hill, Goins, Eldridge, Byrd, Matheny, Boyd, Matlock, Dawn White, Weaver, Keisling, Zachary, Van Huss, Carr, Vaughan, Crawford, Hawk, Whitson, Tillis, Kane, Calfee, Marsh, Cameron Sexton, Lynn, Johnson, Moon, Timothy Hill, Holt, Casada, Holsclaw, Halford, Harry Brooks, Kevin Brooks, McCormick, Carter, Travis, Gant, Smith, Sherrell, Powers, Lollar, Gravitt, Sparks, Littleton, Hulsey, Coley, Ragan, Doss, Lamberth, Howell, Hicks, Williams, Faison, Kumar, Butt, Forgety, Madam Speaker Harwell, Daniel, Rudd, Alexander, Mark White, Wirgau, Windle

Substituted for: Senate Bill No. 2332

By Senators Green, Bell, Ketron, Roberts, Pody, Southerland, Bowling, Jackson, Gresham, Reeves, Hensley, Lundberg

AN ACT to amend Tennessee Code Annotated, Title 4; Title 7; Title 8; Title 9; Title 38; Title 39 and Title 40, relative to immigration.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding the following language as a new chapter:

4-59-101.

The general assembly finds, determines, and declares that:

(1) Because the matters contained in this chapter have important statewide ramifications for compliance with and enforcement of federal immigration laws and for the welfare of all citizens in this state, these matters are of statewide concern;

(2) Allowing illegal immigrants to reside within this state undermines federal immigration laws and state laws allocating available resources; and

(3) The attorney general and reporter and all appropriate state law enforcement agencies are to vigorously pursue all federal moneys to which the state may be entitled for the reimbursement of moneys spent to comply with federal immigration laws.

4-59-102.

As used in this chapter:

(1) "Law enforcement agency":

(A) Means an agency in this state charged with enforcement of state or federal laws, or with managing custody of detained persons in this state, and includes, but is not limited to, state police, campus police, and the department of safety; and

(B) Includes officials, representatives, agents, and employees of an agency described in subdivision (1)(A);

(2) "Official" means an agent, employee, member, or representative of a state governmental entity, but does not mean the attorney general and reporter;

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(3) "Sanctuary policy" means any directive, order, ordinance, resolution, practice, or policy, whether formally enacted, informally adopted, or otherwise effectuated, that:

(A) Limits or prohibits any state governmental entity or official from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien;

(B) Grants to aliens unlawfully present in the United States the right to lawful presence within the boundaries of this state in violation of federal law;

(C) Violates 8 U.S.C. § 1373;

(D) Restricts in any way, or imposes any conditions on, a state or local governmental entity's cooperation or compliance with detainers from the United States department of homeland security, or other successor agency, to maintain custody of any alien or to transfer any alien to the custody of the United States department of homeland security, or other successor agency;

(E) Requires the United States department of homeland security, or other successor agency, to obtain a warrant or demonstrate probable cause before complying with detainers from the department to maintain custody of any alien or to transfer any alien to its custody; or

(F) Prevents law enforcement agencies from inquiring as to the citizenship or immigration status of any person; and

(4) "State governmental entity" means any state agency, bureau, commission, council, department, law enforcement agency, or unit thereof, but does not mean the office of the attorney general and reporter.

4-59-103.

No state governmental entity or official shall adopt or enact a sanctuary policy. A state governmental entity that adopts or enacts a sanctuary policy is ineligible to enter into any grant contract with the department of economic and community development until the sanctuary policy is repealed, rescinded, or otherwise no longer in effect.

4-59-104.

(a) A person residing in a municipality or county who believes a state governmental entity or official has violated § 4-59-103 may file a complaint in chancery court in that person's county of residence.

(b) The person filing the complaint has the burden of proving by a preponderance of the evidence that a violation of § 4-59-103 has occurred.

(c) If the court finds the state governmental entity or official is in violation of § 4-59-103, the court shall issue a writ of mandamus against the entity or official ordering the entity or official to comply with § 4-59-103, enjoin the entity or official from further interference, and take other action to ensure compliance as is within the jurisdiction of the court.

(d) A state governmental entity or official has no less than one hundred twenty (120) days from the date of the court's order to comply with the order. If, after one hundred twenty (120) days, the entity or official has not complied with the court's order, the court may take whatever action necessary to enforce compliance.

(e) Upon a finding by the court that a state governmental entity or official has adopted or enacted a sanctuary policy, the state governmental entity, or the entity to which the official belongs, becomes ineligible to enter into any grant contract with the department of economic and community development. Ineligibility commences on the

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date the court finds that the state governmental entity or official is in violation of § 4-59-103 and continues until such time that the court certifies that the sanctuary policy is repealed, rescinded, or otherwise no longer in effect.

SECTION 2. Tennessee Code Annotated, Section 7-68-102, is amended by deleting the section and substituting the following:

As used in this chapter:

(1) "Law enforcement agency":

(A) Means an agency of a political subdivision of this state charged with enforcement of state, county, municipal, or federal laws, or with managing custody of detained persons in this state, and includes, but is not limited to, county and other municipal police departments and sheriffs' departments; and

(B) Includes officials, representatives, agents, and employees of an agency described in subdivision (1)(A);

(2) "Local governmental entity" means a governing body, board, commission, committee, department, or law enforcement agency of a municipality, county, or other political subdivision of this state;

(3) "Official" means an agent, employee, member, or representative of a local governmental entity; and

(4) "Sanctuary policy" means any directive, order, ordinance, resolution, practice, or policy, whether formally enacted, informally adopted, or otherwise effectuated, that:

(A) Limits or prohibits any local governmental entity or official from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien;

(B) Grants to aliens unlawfully present in the United States the right to lawful presence within the boundaries of this state in violation of federal law;

(C) Violates 8 U.S.C. § 1373;

(D) Restricts in any way, or imposes any conditions on, a state or local governmental entity's cooperation or compliance with detainers from the United States department of homeland security, or other successor agency, to maintain custody of any alien or to transfer any alien to the custody of the United States department of homeland security, or other successor agency;

(E) Requires the United States department of homeland security, or other successor agency, to obtain a warrant or demonstrate probable cause before complying with detainers from the department to maintain custody of any alien or to transfer any alien to its custody; or

(F) Prevents law enforcement agencies from inquiring as to the citizenship or immigration status of any person.

SECTION 3. Tennessee Code Annotated, Section 7-68-103, is amended by deleting the section and substituting instead the following:

No local governmental entity or official shall adopt or enact a sanctuary policy. A local governmental entity that adopts or enacts a sanctuary policy is ineligible to enter into any grant contract with the department of economic and community development until the sanctuary policy is repealed, rescinded, or otherwise no longer in effect.

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SECTION 4. Tennessee Code Annotated, Section 7-68-104(c), is amended by deleting the subsection and substituting instead the following:

(c)

(1) If the court finds the local governmental entity or official is in violation of § 7-68-103, the court shall issue a writ of mandamus against the entity or official ordering the entity or official to comply with § 7-68-103, enjoin the entity or official from further interference, and take other action to ensure compliance as is within the jurisdiction of the court.

(2) Upon a finding by the court that a local governmental entity or official has adopted or enacted a sanctuary policy, the local governmental entity, or the entity to which the official belongs, becomes ineligible to enter into any grant contract with the department of economic and community development. Ineligibility commences on the date the court finds that the local governmental entity or official is in violation of § 7-68-103 and continues until such time that the court certifies that the sanctuary policy is repealed, rescinded, or otherwise no longer in effect.

SECTION 5. Tennessee Code Annotated, Title 7, Chapter 68, is amended by adding the following language as a new section:

(a) All law enforcement agencies and officials are authorized, in accordance with 8 U.S.C. § 1357(g)(10), to communicate with the appropriate federal official regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States or otherwise to cooperate with the appropriate federal official in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.

(b) A law enforcement agency may negotiate the terms of a memorandum of agreement between the law enforcement agency and the appropriate federal official in 8 U.S.C. § 1357(g), concerning the enforcement of federal immigration laws. Any memorandum of agreement negotiated pursuant to 8 U.S.C. § 1357(g) must:

(1) Be entered into in accordance with federal law;

(2) Require that each officer employed by the law enforcement agency be trained in accordance with the memorandum of agreement between the law enforcement agency and the appropriate federal official concerning the law enforcement officer's role in enforcing federal immigration laws, in accordance with 8 U.S.C. § 1357(g); and

(3) Allow for the enforcement of federal immigration laws to the full extent permitted under federal law.

(c)

(1) Whenever a law enforcement agency enters into a memorandum of agreement pursuant to subsection (b), notice of the agreement must be submitted in writing to the governor, the office of the lieutenant governor, who shall transmit the notice to the members of the senate, and the office of the speaker of the house of representatives, who shall transmit the notice to the members of the house of representatives.

(2) Any renewal, modification, or termination of a memorandum of agreement must be reported in the same manner as the original memorandum of agreement in subdivision (c)(1).

SECTION 6.

(a) This act shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons, and respecting the privileges and immunities of United States citizens.

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(b) In complying with the requirements of this act, no law enforcement officer shall consider an individual's race, color, or national origin, except to the extent permitted by the United States or Tennessee constitution, and federal law.

(c) If any part or provision of this act is in conflict or inconsistent with applicable provisions of federal law, or otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable laws, and the remainder of this act shall not be affected thereby.

SECTION 7. This act shall take effect January 1, 2019, the public welfare requiring it.

HOUSE BILL NO. 2315

PASSED: April 25, 2018



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALL
SPEAKER OF THE SENATE

APPROVED this _____ day of _____ 2018

BILL HASLAM, GOVERNOR



BILL HASLAM
GOVERNOR
STATE OF TENNESSEE

May 21, 2018

The Honorable Beth Harwell
Speaker of the House of Representatives
425 5th Avenue North
Suite 600 Cordell Hull Bldg.
Nashville, TN 37243

RE: House Bill 2315

Dear Speaker Harwell,

Federal immigration laws are important to the safety and security of our great country, but House Bill 2315 is a solution looking for a problem and has primarily served to stir up fear on both sides of the issue, which distracts from focusing on real problems as well as the opportunities in front of us. Sanctuary cities are already prohibited by state law and do not exist in Tennessee.

Opponents of this bill have argued that the bill is unconstitutional. Yet, amendments during the legislative process removed significant questions regarding the bill's constitutionality. To be clear, this is not a mass deportation bill, and it does not require our law enforcement agencies to serve as immigration enforcement officials or make arrests based on immigration status.

In its final form, the bill prohibits the State and local governments from adopting ordinances, policies, or practices that subvert enforcement of federal law, and it permits—but does not require—local law enforcement to enter into agreements with federal agencies regarding cooperation. Tennessee law is already strong in this area. We prohibit ordinances and written policies that restrict local officials from complying with federal immigration laws, require employer verification of immigration status, encourage communication with federal agencies, and prohibit providing public benefits to those unlawfully in the United States.

For these reasons and others, House Bill 2315 will become law without my signature.

Respectfully,

A handwritten signature in black ink, appearing to read "Bill Haslam".

Bill Haslam

cc: The Honorable Randy McNally, Lieutenant Governor and Speaker of the Senate