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[H.R. 3009, Enforce the Law for Sanctuary Cities Act](#)

FLOOR SITUATION

On Thursday, July 23, 2015, the House will consider [H.R. 3009](#), *the Enforce the Law for Sanctuary Cities Act*, under a [closed rule](#). H.R. 3009 was introduced on July 9, 2015, by Rep. Duncan Hunter (R-CA) and was referred to the Committee on the Judiciary.

SUMMARY

H.R. 3009 bars state and local governments from receiving federal funds under the State Criminal Alien Assistance Program if such entities have in effect laws, policies, or procedures that inhibit the enforcement of immigration laws or that prohibit state or local law enforcement officials from gathering information regarding the citizenship or immigration status of any individual. The bill also requires the Attorney General to withhold Community Oriented Policing Services (COPS) and Byrne Justice Assistance Grant (JAG) funding that a state or local government otherwise would have been awarded for the following fiscal year if such entity impedes immigration enforcement in a manner prohibited by the bill.

BACKGROUND

On July 1, 2015, a 32 year-old woman, Kathryn Steinle, was shot and killed as she walked on a San Francisco pier with her father and a family friend. Her alleged killer, Mexican national Juan Francisco Lopez-Sanchez, who had been serving a federal sentence for illegal re-entry, reportedly had previously been deported five times. “Instead of being deported upon finishing his term, he was handed over to San Francisco on a decades-old drug charge. San Francisco authorities ended up dismissing Lopez-Sanchez’s case and releasing him despite a request from federal officials to keep him detained.”¹

According to the Congressional Research Service, “a number of states and municipalities have adopted formal or informal policies which prohibit or substantially restrict police cooperation with federal immigration enforcement efforts.”² Municipalities that have adopted such policies, either

¹ See Associated Press—“[Republicans lash homeland security chief over pier killing](#),” July 14, 2015.

² See CRS Report—“[State and Local "Sanctuary" Policies Limiting Participation in Immigration Enforcement](#),” July 10, 2015 at 7.

formally or informally, are generally referred to as sanctuary cities, although there is not a commonly agreed upon definition or understanding about what the term means.

States and municipalities provide “sanctuary” to undocumented immigrants in a variety of ways. They include: (1) limiting police investigations into the immigration status of persons with whom they come in contact; (2) declining to honor requests made by federal immigration authorities that certain aliens be held until those authorities may assume custody; (3) shielding certain unlawfully present aliens from detection by federal immigration authorities; and (4) amending or applying state criminal laws to reduce or eliminate the immigration consequences that might result from an alien's criminal conviction.³ San Francisco is among some 300 cities nationwide that refuse to abide by federal immigration detainers issued by Immigration and Customs Enforcement (ICE) requesting the detention of undocumented immigrants ICE has reason to believe are removable.⁴

According to a July 2015 [report](#) from the Center for Immigration Studies (CIS), “state and local sanctuary policies caused the release of more than 8,000 criminal alien offenders sought by ICE for deportation in 276 jurisdictions around the country over an eight month period.” The report, [based on data CIS obtained from ICE through a Freedom of Information Act \(FOIA\) request](#), found that “nearly 1,900 of the released offenders subsequently were arrested for another crime within that eight month period.”⁵ The ICE document noted that, as of 2014, there were 276 state and local jurisdictions that had adopted policies of non-compliance with some or all ICE detainers.⁶ CIS has compiled a map of so-called sanctuary cities on its website, which can be found [here](#).

The federal government has acted to preempt “a range of state and local activities that potentially undermine or conflict with federal immigration enforcement policies.”⁷ Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) “bars state and local governments from imposing any prohibition or restriction on a state or local government entity that prevents it from sending or receiving information, to or from federal immigration authorities, regarding the immigration status of an individual.”⁸

Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA; Division C of Public Law 104-208) “bars any restriction on a federal, state, or local governmental entity or official's ability to send or receive information regarding ‘immigration or citizenship status’ to or from federal immigration authorities.”⁹ The section “further provides that no person or agency may prohibit a federal, state, or local government entity from (1) sending information regarding immigration status to, or requesting information from, federal immigration authorities; (2) maintaining information regarding immigration status; or (3) exchanging such information with any other federal, state, or local government entity.”¹⁰

Section 241(i) of the Immigration and Nationality Act (INA) authorizes the [State Criminal Alien Assistance Program](#) (SCAAP), which “is a formula grant program that provides financial assistance to states and localities for correctional officer salary costs incurred for incarcerating undocumented

³ Id. at 2.

⁴ See AP [story](#)

⁵ See Center for Immigration Studies Report—“[Rejecting detainers, Endangering Communities](#),” July 2015 at 1.

⁶ Id.

⁷ See CRS [report](#) at 4.

⁸ Id. at 10.

⁹ Id.

¹⁰ Id.

criminal aliens.”¹¹ The program is administered by the Bureau of Justice Assistance (BJA) at the Department of Justice (DOJ) in conjunction with the Department of Homeland Security.

H.R. 3009 bars SCAAP funds to states and localities that have in effect laws, policies, or procedures in contravention of Section 642 of IIRIRA or that prohibit state or local law enforcement officials from gathering information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

The BJA also administers funding under the [Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program](#), which can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and criminal justice information systems to improve or enhance such areas as: law enforcement programs; prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment programs; planning, evaluation, and technology improvement programs; and, crime victim and witness programs (other than compensation).¹² The DOJ administers the COPS program, which “awards grants to state, local, and tribal law enforcement agencies throughout the United States so they can hire and train law enforcement officers to participate in community policing, purchase and deploy new crime-fighting technologies, and develop and test new and innovative policing strategies.”¹³

H.R. 3009 requires the Attorney General to withhold COPS and Byrne JAG funding that a state or local government otherwise would have been awarded for the following fiscal year if such entity impedes immigration enforcement in a manner prohibited by the bill.

In testimony before the House Committee on the Judiciary on July 14, 2015, Homeland Security Secretary Jeh Johnson said he plans “to evaluate whether a new approach is needed to avoid what happened in San Francisco, where an immigrant with a long criminal record and without legal status was released onto the streets and committed a murder.”¹⁴ According to media reports, Secretary Johnson “agreed with Republicans who said it didn’t make sense for the alleged killer to have been handed over to a jurisdiction like San Francisco, a ‘sanctuary city’ that limits its cooperation with the federal government on immigration and was unlikely to try to send him home.”¹⁵

According to Judiciary Committee Chairman Goodlatte, “sanctuary city policies needlessly endanger American lives by refusing to honor the federal government’s authority to enforce immigration laws. Unfortunately, the Obama Administration’s own foolish policies enable rogue local governments to defy federal immigration laws. All too often, these reckless policies create preventable tragedies.”¹⁶

On June 3, 2015, the House approved an amendment to H.R. 2578, the Fiscal Year 2016 Commerce, Justice, Science (CJS) Appropriations Act, offered by Rep. Steve King (R-IA), to effectively prohibit the award of state and local law enforcement assistance funds to sanctuary cities (those acting in contravention of IIRIRA Section 642), by a vote of [227 to 198](#). In the 113th Congress, the House passed an identical amendment to H.R. 4660, the Fiscal Year 2015 CJS Appropriations Act, by a vote of [214 to 194](#) on May 30, 2014.

¹¹ See CRS Report—“[Immigration: Frequently Asked Questions on the State Criminal Alien Assistance Program \(SCAAP\)](#),” September 25, 2009 at Summary.

¹² See CRS Report—“[Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program](#),” January 5, 2015 at 4.

¹³ See CRS Report—“[Community Oriented Policing Services \(COPS\): Current Legislative Issues](#),” January 13, 2014 at Summary.

¹⁴ See AP [story](#)

¹⁵ Id.

¹⁶ See Press Release—“[Immigration Subcommittee to Examine Dangerous Sanctuary City Policies](#),” July 16, 2015.

COST

A Congressional Budget Office (CBO) cost estimate is currently unavailable.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.