

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4440

BY DELEGATES LONGANACRE, MAZZOCCHI, HANNA,
MANDT, KEATON, PHILLIPS, FERRELL, SMITH, MARTIN,
BURKHAMMER AND KIMBLE

[Introduced January 31, 2022; Referred
to the Committee on Political Subdivisions then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §7-28-1, §7-28-2, §7-28-3, and §7-28-4, all relating to requiring local entities
 3 to enforce immigration laws; providing for definitions; requiring that a local entity not
 4 prohibit the enforcement of immigration laws or the cooperation with other governmental
 5 agencies to enforce immigration laws; protecting the taxpayers of West Virginia by
 6 ensuring that cities, towns, municipalities and counties in West Virginia are immediately
 7 required to contact the United States Immigration and Customs Enforcement to identify
 8 where noncitizen residents are residing, so that the matter of their illegal status is resolved
 9 in the courts; and prohibiting discrimination while enforcing existing immigration laws and
 10 prohibiting sanctuary cities in West Virginia.

Be it enacted by the Legislature of West Virginia:

ARTICLE 28. ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS.

§7-28-1. Definitions.

- 1 (a) "Immigration laws" means the laws of this state or federal law relating to immigrants or
 2 immigration, including the federal immigration and Nationality Act 8 U.S.C. § 1101 et seq.
- 3 (b) "Fine" means a \$10,000 monthly fine imposed upon municipalities or counties (if the
 4 town or village is not incorporated) for each incident of knowingly harboring illegal immigrants.
- 5 (c) "Lawful detention" means the detention of an individual by a local entity for the
 6 investigation of a criminal offense. The term excludes a detention if the sole reason for the
 7 detention is that the individual:
- 8 (1) Is a victim of or witness to a criminal offense; or
 9 (2) Is reporting a criminal offense.
- 10 (d) "Local entity" means:
- 11 (1) The governing body of a municipality, county, or other authority, subject to the laws of
 12 this state;
- 13 (2) An officer or employee of or a division, department, or other body that is part of a

14 municipality, county, other authority, including a sheriff, municipal police department, municipal
15 attorney, or county attorney; and

16 (3) A district attorney or criminal district attorney.

17 (e) "Sanctuary city" is defined as any town or municipality in West Virginia that knowingly
18 harbors and/or otherwise aides and abets illegal immigrants who have crossed the international
19 border into the United States illegally and have migrated into West Virginia.

20 (f) "West Virginia identification card" is any form of government issued identification,
21 including, but not limited to, a West Virginia driver's license.

§7-28-2. Local government policy regarding immigration enforcement.

1 (a) A local entity shall not adopt an ordinance, resolution, rule, regulation, or policy which
2 prohibits the entity from enforcing immigration laws.

3 (b) A local entity shall not prohibit a person who is employed as a police officer for a
4 municipality pursuant to §8-14-1 et seq. of this code, a corrections officer, a booking clerk, a
5 magistrate, or a district attorney, criminal district attorney, or other prosecuting attorney, and who
6 is otherwise under the control of the entity from:

7 (1) Inquiring into the immigration status of a person under a lawful detention or under
8 arrest;

9 (2) With respect to information relating to the immigration status, lawful or unlawful, of any
10 person under a lawful detention or under arrest:

11 (A) Sending the information to or requesting or receiving the information from United
12 States Citizenship and Immigration Services or United States Immigration and Customs
13 Enforcement, including information regarding a person's place of birth;

14 (B) Maintaining the information; or

15 (C) Exchanging the information with another local entity, a state government entity, or a
16 federal government entity;

17 (3) Assisting or cooperating with a federal immigration officer as reasonable and

18 necessary, including providing enforcement assistance; or
19 (4) Permitting a federal immigration officer to enter and conduct enforcement activities at
20 a municipal or county jail to enforce federal immigration laws.

§7-28-3. Sanctuary cities forbidden; enforcement; penalties.

1 Sanctuary cities, as defined in §7-28-1 of this code, are hereby forbidden. When a city,
2 town, municipality, or county becomes aware of illegal immigrants residing within their jurisdiction,
3 they are required to contact the United States Immigration and Customs Enforcement. No person
4 residing within this state shall receive a West Virginia identification card, as defined in §7-28-1 of
5 this code, until that individual has documented evidence that they have reported to their
6 immigration court hearing and all legal matters associated with their immigration status have been
7 successfully and legally resolved. There shall be a monthly \$10,000 fine upon towns, cities,
8 municipalities and/or counties for each incident of knowingly harboring illegal immigrants.

§7-28-4. Discrimination prohibited.

1 A local entity or a person employed by or otherwise under the direction or control of the
2 entity may not consider race, color, language, or national origin while enforcing immigration laws
3 except to the extent permitted by the United States Constitution or the West Virginia Constitution.

NOTE: The purpose of this bill is to require all local entities of this state to enforce immigration laws. The bill provides for definitions. The bill protects the taxpayers of West Virginia by ensuring that municipalities and counties in West Virginia are immediately required to contact the United States Immigration and Customs Enforcement to identify where noncitizen residents are residing, so that the matter of their illegal status is resolved in the Courts. Finally, the bill prohibits discrimination while enforcing immigration laws and prohibiting sanctuary cities in West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.