



SB 151 Prohibiting Sanctuary Cities in Wisconsin

Testimony of Senator Steve Nass

Senate Committee on Labor & Regulatory Reform

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Thank you committee members for allowing me to testify in support of Senate Bill 151. This legislation will protect the public by prohibiting sanctuary cities in Wisconsin.

Earlier this year, Milwaukee County Sheriff Earnell Lucas publicly announced that his department would cease all cooperation with federal immigration officials relating to criminal illegal aliens in the Milwaukee County jail, even those who have committed violent crimes. This includes refusing to honor U.S. Immigration and Customs Enforcement (ICE) detainers to remove serious criminal offenders. “There won’t be any communication with ICE,” Lucas said. That means the largest county in Wisconsin will now be releasing criminal illegal aliens that are serious public safety threats back into our communities to commit more crimes.

In response to the Sheriff’s decision, U.S. Immigration and Customs Enforcement (ICE) issued the following statement:

“When law enforcement agencies fail to honor immigration detainers and release serious criminal offenders onto the streets, it undermines ICE’s ability to protect public safety and carry out its mission.”

The City of Madison and Dane County have now gone even further. Madison Mayor Satya Rhodes-Conway has gone from refusing to follow federal law to actively impeding federal immigration officials. In June 2019, she proclaimed that she will stand with the illegal immigrant community and “keep the community informed” if local law enforcement is given advance information by ICE about future immigration enforcement actions in the state.¹ This puts law enforcement personnel and local residents at greater risk of being injured or killed in a violent confrontation with criminal aliens. As a result, ICE has been forced to stop providing advance information to local officials in Madison because of this threat to impede federal law enforcement officers performing their job.

¹ <https://www.channel3000.com/news/-we-stand-with-the-immigrant-community-madison-leaders-respond-to-potential-ice-arrests-next-week/1087409132>

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We have already seen instances where a local government's failure to comply with an ICE detainer has resulted in the death of innocent people.

On July 1, 2015, Kate Steinle, a 32 year old woman from California, was shot and killed while she was walking on a San Francisco pier with her father. The shooter was Jose Inez Garcia Zarate (known at the time by the alias Juan Francisco Lopez-Sanchez), an illegal alien and convicted felon who had been previously deported five times. In March 2015, U.S. Immigration and Customs Enforcement (ICE) had Garcia Zarate in custody after he completed a third prison term, but turned him over to the San Francisco sheriff's office on an outstanding drug charge.

ICE issued a detainer requesting notification prior to Garcia Zarate's release so they could take him into custody again. When the district attorney declined to prosecute Garcia Zarate on the drug charges, San Francisco did not honor the detainer because of their sanctuary city policy, and he was released from jail and set free. Less than four months later Garcia Zarate opened fire on the San Francisco pier, killing Ms. Steinle. This is just one of many examples of innocent Americans that have been harmed by the actions of illegal aliens.

In another terrible case in May 2019, two illegal aliens, Josue Rafael Fuentes-Ponce and Joel Ernesto Escobar, were arrested again and charged with first-degree murder, after being released from custody when a sanctuary jurisdiction in Maryland refused to honor an ICE detainer request in 2018. Upon release, they killed a 14-year-old girl, Ariana Funes-Diaz, and dumped her body in a creek.²

Fuentes-Ponce and Ernesto Escobar, both Salvadoran nationals, had been previously arrested in May 2018 for attempted first-degree murder, attempted second-degree murder, participation in gang activity, conspiracy to commit murder, attempted robbery, and other related charges. Both are members of the extremely violent gang MS-13. Despite this violent criminal history, officials in Prince George's County, Maryland, a sanctuary county, refused to honor an ICE detainer. Instead they released these two violent criminal illegal aliens, and enabled them to brutally murder an innocent 14-year-old girl less than a year later.

While many believe these stories only occur in other states, Wisconsin has seen similar crimes committed by illegal aliens. In May 2009, Raul Ponce-Rocha, an illegal alien from Mexico, brutally murdered Wausau high school senior Breanna Schneller.

Illegal alien Jorge Dominguez had at least 4 run-ins with law enforcement for serious crimes, including battery and drug possession, before killing a young mother in Kenosha County in 2010. Dominguez was released back into the community despite federal officials saying a detainer had been issued.

Christine Rathke, a 20-year-old star basketball player from Franklin, Wisconsin was struck and killed in February 2003 on her way home from a basketball team banquet. The driver was Victor Sanchez, an illegal immigrant. Sanchez was reported to police driving recklessly and erratically,

² <https://www.ice.gov/news/releases/ice-seeks-custody-teen-murder-suspects-second-time>

and was charged with homicide by negligent use of a vehicle. He was speeding and driving on the wrong side of the road at the time of the fatal crash.

In 2013, in Marathon County, illegal alien Eduardo Organista-Temich was charged with sexually molesting a 7-year-old girl that he was babysitting.

Sadly, these violent attacks and tragedies could have been prevented if only local authorities had cooperated with federal immigration officials. These are only a small sample of the numerous innocent citizens, sometimes children, who have become victims of crime at the hands of illegal aliens because of the refusal of some local jurisdictions to cooperate with federal immigration officials. There are more than 300 cities, counties, and states across the country that are considered sanctuary governments, according to the Center for Immigration Studies (CIS).

Generally, a sanctuary government is a city, village, town, or county that by ordinance or policy prohibits their employees from cooperating with federal immigration authorities or inquiring into the immigration status of individuals who have been charged with a crime in their local jurisdiction.

SB 151 would prohibit any city, village, town, or county in Wisconsin from enacting or enforcing an ordinance or policy that prohibits the enforcement of a federal or state law relating to illegal aliens or determining whether an individual has satisfactory immigration status. The bill also requires a political subdivision to comply with a lawful detainer that is issued by U.S. Immigration and Customs Enforcement (ICE). The bill is directed specifically at illegal aliens that have committed a crime. It simply requires local municipalities to follow state and federal law.

The bill, as amended by Senate Amendment 1, authorizes the attorney general, district attorney, sheriff, or local resident within a jurisdiction to file a writ of mandamus with the circuit court to require compliance with the requirements created by the bill if a political subdivision is failing to comply with the law.

If a court finds that the political subdivision has failed to comply with the law, it must notify the Department of Revenue. The Department must reduce the local government's shared revenue payments in the next year by \$500 to \$5,000 (depending on population) for each day of noncompliance. In addition, if the court makes such a finding, the local unit of government is liable for damages to an individual or property caused by an illegal alien.

The penalty is determined by population as follows:

0 – 9,999 population:	\$500 per day
10,000 – 99,999 population:	\$1,000 per day
100,000 – 249,999 population:	\$2,000 per day
250,000 or greater population:	\$5,000 per day

Contrary to claims of opponents, sanctuary cites do not make our communities safer. These politically correct policies actually increase the risk to public safety in order to make a political statement regarding federal immigration laws.

Up to 80 percent of criminal illegal aliens who are released by sanctuary jurisdictions across the United States go on to commit additional crimes and victimize more Americans, according to testimony presented by ICE officials during a United States Senate Judiciary Committee hearing in October 2019.

“When aliens walk out the front of the jail that could have been handed over to Immigration and Customs Enforcement for removal proceedings, they have the opportunity to commit additional crimes,” ICE official Timothy Robbins said. “What we’ve seen, and depending on the report you look at, anywhere from 40 to 80 percent of those who have committed crimes will re-offend.”

“What we’re seeing is crimes that could be preventable, the human cost who are being victimized and hurt by criminal aliens that ICE had the ability to remove from this country, Robbins said.”³

According to a recent study by the Center for Immigration Studies (CIS):

- Sanctuary city policies caused the release of more than 8,000 criminal illegal alien offenders sought by ICE over just an eight-month period in 2014.
- 63% of those freed by local sanctuary authorities had prior criminal histories or were labeled a public safety concern at the time of their release.
- 2,984 (37%) had a prior felony conviction or charge.
- 1,909 (23%) had a prior misdemeanor conviction or charge related to violence, assault, sexual abuse, DUI, weapons, or drug distribution or trafficking.
- Nearly 1,900 (23%) of those released were rearrested for another crime within an 8 month period.⁴

During a two-day operation conducted by ICE in January 2017, 16 illegal aliens with previous criminal convictions were arrested in the Milwaukee area. The arrests were made in Milwaukee, Waukesha, Greenfield, New Berlin, Oconomowoc, and Pewaukee. All 16 arrested had been convicted of crimes in the United States. Two were previously deported and two others had outstanding deportation orders. Their convictions included: assault with a deadly weapon,

³ United States Senate Judiciary Committee Hearing, October 22, 2019, testimony of Timothy Robbins, ICE Acting Associate Executive Director of Detention and Removal Operations, <https://www.judiciary.senate.gov/meetings/sanctuary-jurisdictions-the-impact-on-public-safety-and-victims>

⁴ <http://cis.org/rejecting-detainers-endangering-communities>

receiving stolen property, battery, grand theft (auto), drug possession with intent to distribute, and drunk driving.⁵

In another ICE enforcement operation in Wisconsin and other Midwest states during the week of February 6, 2017, 235 illegal aliens were arrested. Of those arrested, 163 had previous criminal convictions in the United States. The operation was aimed at immigration fugitives, re-entrants, and at-large criminal aliens. It included the states of Wisconsin, Illinois, Indiana, Kentucky, Kansas, and Missouri.⁶

ICE arrested 83 criminal aliens and immigration violators in a 4-day enforcement action in Wisconsin from September 21-24, 2018. More than half, 44, had past serious criminal convictions. Their convictions included: indecent exposure to a minor (an aggravated felony), assault, sexual assault, sexual assault of a child, child abuse, domestic abuse, larceny, receiving stolen property, driving under the influence, identity theft, illegal re-entry after deportation, indecent liberty with a minor, obstructing police, theft, battery, and weapons offenses.⁷

According to U.S. Sentencing Commission data provided to a U.S. House of Representatives hearing on immigration enforcement, over 35 percent of the individuals who are sentenced for federal crimes are illegal aliens.⁸ Given that illegal aliens are an estimated 3.5 percent of the population⁹ that means that illegal aliens are ten times more likely to be sentenced for a federal crime than legal residents.

There are an estimated 3 million criminal aliens living in the United States, and nearly 1 million of these illegal aliens have final orders of removal.¹⁰ These individuals should not be able to continue to live in our communities, engaging in further criminal activity and creating more crime victims.

In addition to the threat to public safety, sanctuary city policies are also expensive. The cost to taxpayers to provide education, health care, criminal justice, and other general services to illegal aliens is estimated by the Federation for American Immigration Reform (FAIR) to be \$116 billion per year, according to a 2017 study. That number is arrived at after subtracting the total estimated tax revenue paid by illegal aliens from the total impact of illegal migration. In other words, this cost estimate already factors in the net positive economic impact. Moreover, that amount represents an increase of \$3 billion per year in under 4 years.¹¹

⁵ <http://fox6now.com/2017/01/27/ice-milwaukee-arrests-16-during-operation-targeting-criminal-aliens/>

⁶ <http://www.tmj4.com/news/national/235-arrested-after-ice-raids-in-wisconsin-and-other-midwest-states>

⁷ <https://www.ice.gov/news/releases/ice-arrests-83-criminal-aliens-and-immigration-violators-4-day-wisconsin-enforcement>

⁸ United States Sentencing Commission Interactive Sourcebook.

⁹ Pew Research Center, "5 facts about illegal immigration in the U.S.," November 3, 2016

¹⁰ The Washington Examiner, "ICE: 950,000 Illegals with 'Removal Orders,'" February 20, 2017

¹¹ Federation for American Immigration Reform, "The Fiscal Burden of Illegal Immigration," 2017

In Wisconsin, taxpayers spend an estimated \$568 million annually for illegal aliens. These costs include education, healthcare, welfare benefits, law enforcement, and corrections expenditures related to illegal aliens and their families.¹²

Sanctuary policies create a magnet for illegal immigration, especially among those who have committed crimes in the U.S. In fact, Francisco Sanchez admitted that he came to San Francisco because of the city's strong sanctuary city policy. Accommodating those who violate our immigration laws encourages others to follow the same path. It harms prospective legal immigrants by providing little incentive to pursue legal paths to immigration.

These policies also conflict with federal law. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act prohibits state and local governments from preventing public employees from receiving or sharing information on illegal aliens with federal immigration officials.

Under federal law (8 U.S. Code, Section 1373), "A federal, state, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual."¹³

In April 2017, the U.S. Department of Justice (DOJ) notified Milwaukee County that they were at risk of losing federal grant money as a result of the county's sanctuary policies regarding illegal aliens that have committed crimes. Milwaukee County was also identified in a May 2016 report by the DOJ's Inspector General as having policies that potentially violate federal law (8 U.S. Code, Section 1373).¹⁴ According to an April 21, 2017 Milwaukee Journal-Sentinel report, Milwaukee County could potentially lose more than \$900,000 from the U.S. DOJ Edward Byrne Memorial Justice Assistance Grant Program if they fail to comply with conditions of the grant award.¹⁵

In addition, Waukesha County Sheriff Eric Severson, who has lobbied on behalf of the Wisconsin Sheriffs & Deputy Sheriffs Association, acknowledged in a September 21, 2017 interview on the Mark Belling Show that his county and others in the state do not always honor all ICE detainer requests. Violation of these federal laws could result in the loss of federal funds for sanctuary city jurisdictions in Wisconsin. Loss of these funds could lead to state and local taxpayers having to fill this gap, as a result of the sanctuary city's failure to comply with federal regulations. This is another reason the state has an interest in ensuring local municipalities are following the law.

¹² Federation for American Immigration Reform, "The Fiscal Burden of Illegal Immigration," 2017

¹³ <http://uscode.house.gov/view.xhtml?path=/prelim@title8&edition=prelim>

¹⁴ <https://www.justice.gov/opa/pr/department-justice-sends-letter-nine-jurisdictions-requiring-proof-compliance-8-usc-1373>

¹⁵ <http://www.jsonline.com/story/news/local/milwaukee/2017/04/21/us-justice-department-warns-milwaukee-follow-immigration-law/100753656/>

Some opponents of this bill may argue that creating sanctuary cities is designed only to help protect crime victims who are in the country illegally. However, this assertion is false. Law enforcement rarely, if ever, inquire about the immigration status of crime victims or witnesses, and have the discretion to grant immunity to victims and witnesses of crimes. As we've seen in San Francisco, Maryland, Madison, Milwaukee, and elsewhere, many of the sanctuary city policies are so extreme they are actually helping to shield dangerous convicted felons and putting law-abiding citizens in harm's way.

Now, because of the political actions of some municipalities, Wisconsin citizens are also being put at unnecessary risk of becoming victims of crime, repeating the same preventable tragedies we are seeing around the country. This bill is common sense legislation that protects public safety by requiring cooperation with federal law enforcement agencies. It provides protection for all Wisconsin residents, including legal immigrants.

SB 151 is targeted at individuals who are involved in criminal activity and are already in the custody of local law enforcement agencies. It is not directed at law-abiding immigrants in Wisconsin. The bill does not make local law enforcement officers act as immigration enforcement agents and it does not require local law enforcement to go out looking for people who entered the United States illegally.

Immigration policy is made and controlled at the federal level, by our federal officials; not by state and local governments. If changes to current laws on immigration are desired, they must be debated and acted on by Congress and the President. Each local municipality cannot pick and choose which state and federal laws to obey or ignore; otherwise we no longer have a government of laws. This bill simply requires local municipalities to comply with state and federal law.