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114TH CONGRESS
1ST SESSION

S. _____

To hold sanctuary jurisdictions accountable for defying Federal law, to increase penalties for individuals who illegally reenter the United States after being removed, and to provide liability protection for State and local law enforcement who cooperate with Federal law enforcement and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. VITTER (for himself, Mr. TOOMEY, Mr. GRASSLEY, Mr. CRUZ, Mr. JOHNSON, Mr. CORNYN, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To hold sanctuary jurisdictions accountable for defying Federal law, to increase penalties for individuals who illegally reenter the United States after being removed, and to provide liability protection for State and local law enforcement who cooperate with Federal law enforcement and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Sanctuary Poli-
5 cies and Protect Americans Act”.

1 **SEC. 2. SANCTUARY JURISDICTION DEFINED.**

2 In this Act, the term “sanctuary jurisdiction” means
3 any State or political subdivision of a State, including any
4 law enforcement entity of a State or of a political subdivi-
5 sion of a State, that—

6 (1) has in effect a statute, ordinance, policy, or
7 practice that is in violation of subsection (a) or (b)
8 of section 642 of the Illegal Immigration Reform
9 and Immigrant Responsibility Act of 1996 (8 U.S.C.
10 1373); or

11 (2) has in effect a statute, ordinance, policy, or
12 practice that prohibits any government entity or offi-
13 cial from complying with a detainer that has been
14 lawfully issued or a request to notify about the re-
15 lease of an alien that has been made by the Depart-
16 ment of Homeland Security in accordance with sec-
17 tion 236 and 287 of the Immigration and Nation-
18 ality Act (8 U.S.C. 1226 and 1357) and section
19 287.7 of title 8, Code of Federal Regulations.

20 **SEC. 3. LIMITATION ON GRANTS TO SANCTUARY JURISDIC-**
21 **TIONS.**

22 (a) INELIGIBILITY FOR GRANTS.—

23 (1) LAW ENFORCEMENT GRANTS.—

24 (A) SCAAP GRANTS.—A sanctuary juris-
25 diction shall not be eligible to receive funds pur-
26 suant to the State Criminal Alien Assistance

1 Program under section 241(i) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1231(i)).

3 (B) COPS GRANTS.—No law enforcement
4 entity of a State or of a political subdivision of
5 a State that has a departmental policy or prac-
6 tice that renders it a sanctuary jurisdiction, and
7 such a policy or practice is not required by stat-
8 ute, ordinance, or other codified law, or by
9 order of a chief executive officer of the jurisdic-
10 tion, or the executive or legislative board of the
11 jurisdiction, shall be eligible to receive funds di-
12 rectly or indirectly under the ‘Cops on the Beat’
13 program under part Q of title I of the Omnibus
14 Crime Control and Safe Streets Act of 1968
15 (42 U.S.C. 3796dd et seq.).

16 (C) ENFORCEMENT.—The Attorney Gen-
17 eral, in consultation with the Secretary of
18 Homeland Security, shall terminate the funding
19 described in subparagraphs (A) and (B) to a
20 State or political subdivision of a State on the
21 date that is 30 days after the date on which a
22 notification described in subsection (d)(2) is
23 made to the State or subdivision, unless the
24 Secretary of Homeland Security, in consultation
25 with the Attorney General, determines the State

1 or subdivision is no longer a sanctuary jurisdic-
2 tion.

3 (2) COMMUNITY DEVELOPMENT BLOCK
4 GRANTS.—

5 (A) IN GENERAL.—Title I of the Housing
6 and Community Development Act of 1974 (42
7 U.S.C. 5301 et seq.) is amended—

8 (i) in section 102 (42 U.S.C. 5302),
9 by adding at the end the following:

10 “(25) The term ‘sanctuary jurisdiction’ means
11 any State or unit of general local government that—

12 “(A) has in effect a statute, ordinance, pol-
13 icy, or practice that is in violation of subsection
14 (a) or (b) of section 642 of the Illegal Immigra-
15 tion Reform and Immigrant Responsibility Act
16 of 1996 (8 U.S.C. 1373); or

17 “(B) has in effect a statute, ordinance,
18 policy, or practice that prohibits any govern-
19 ment entity or official from complying with a
20 detainer that has been lawfully issued or a re-
21 quest to notify about the release of an alien
22 that has been made by the Department of
23 Homeland Security in accordance with section
24 236 and 287 of the Immigration and Nation-
25 ality Act (8 U.S.C. 1226 and 1357) and section

1 287.7 of title 8, Code of Federal Regulations.”;

2 and

3 (ii) in section 104 (42 U.S.C. 5304)—

4 (I) in subsection (b)—

5 (aa) in paragraph (5), by
6 striking “and” at the end;

7 (bb) by redesignating para-
8 graph (6) as paragraph (7); and

9 (cc) by inserting after para-
10 graph (5) the following:

11 “(6) the grantee is not a sanctuary jurisdiction
12 and will not become a sanctuary jurisdiction during
13 the period for which the grantee receives a grant
14 under this title; and”;

15 (II) by adding at the end the fol-
16 lowing:

17 “(n) PROTECTION OF INDIVIDUALS AGAINST CRIMI-
18 NAL ALIENS.—

19 “(1) IN GENERAL.—No funds authorized to be
20 appropriated to carry out this title may be obligated
21 or expended to any State or unit of general local
22 government that is a sanctuary jurisdiction.

23 “(2) RETURNED AMOUNTS.—

24 “(A) STATE.—If a State is a sanctuary ju-
25 risdiction during the period for which the State

1 receives amounts under this title, the Sec-
2 retary—

3 “(i) shall direct the State to imme-
4 diately return to the Secretary any such
5 amounts that have not been obligated by
6 the State as of the date on which the State
7 became a sanctuary jurisdiction; and

8 “(ii) may use any returned amounts
9 under clause (i) to make grants to other
10 States that are not sanctuary jurisdictions
11 in accordance with this title.

12 “(B) UNIT OF GENERAL LOCAL GOVERN-
13 MENT.—If a unit of general local government is
14 a sanctuary jurisdiction during the period for
15 which the unit of general local government re-
16 ceives amounts under this title, any such
17 amounts that have not been obligated by the
18 unit of general local government as of the date
19 on which the unit of general local government
20 became a sanctuary jurisdiction—

21 “(i) in the case of a unit of general
22 local government that is not in a non-
23 entitlement area, shall be returned to the
24 Secretary to make grants to States and
25 other units of general local government

1 that are not sanctuary jurisdictions in ac-
2 cordance with this title; and

3 “(ii) in the case of a unit of general
4 local government that is in a nonentitle-
5 ment area, shall be returned to the Gov-
6 ernor of the State to make grants to other
7 units of general local government that are
8 not sanctuary jurisdictions in accordance
9 with this title.

10 “(o) ENFORCEMENT AGAINST FUNDING FOR SANC-
11 TUARY JURISDICTIONS.—

12 “(1) IN GENERAL.—The Secretary shall verify,
13 on a quarterly basis, the determination of the Sec-
14 retary of Homeland Security and the Attorney Gen-
15 eral as to whether a State or unit of general local
16 government is a sanctuary jurisdiction and therefore
17 ineligible to receive a grant under this title for pur-
18 poses of subsections (b)(6) and (n).

19 “(2) NOTIFICATION.—If the Secretary verifies
20 that a State or unit of general local government is
21 determined to be a sanctuary jurisdiction under
22 paragraph (1), the Secretary shall notify the State
23 or unit of general local government that it is ineli-
24 gible to receive a grant under this title.”.

1 (B) EFFECTIVE DATE.—The amendments
2 made by subparagraph (A) shall only apply with
3 respect to community development block grants
4 made under title I of the Housing and Commu-
5 nity Development Act (42 U.S.C. 5301 et seq.)
6 after the date of the enactment of this Act.

7 (b) ALLOCATION.—Any funds that are not allocated
8 to a State or political subdivision of a State pursuant to
9 subsection (a) and the amendments made by subsection
10 (a) shall be allocated to States and political subdivisions
11 of States that are not sanctuary jurisdictions.

12 (c) NOTIFICATION OF CONGRESS.—Not later than 5
13 days after a determination is made pursuant to subsection
14 (a) to terminate a grant or to refuse to award a grant,
15 the Secretary of Homeland Security shall submit to the
16 Committee on Appropriations and the Committee on the
17 Judiciary of the Senate and the Committee on Appropria-
18 tions and the Committee on the Judiciary of the House
19 of Representatives a report that fully describes the cir-
20 cumstances and basis for the termination or refusal.

21 (d) TRANSPARENCY AND ACCOUNTABILITY.—Not
22 later than 60 days after the date of the enactment of this
23 Act, and quarterly thereafter, the Secretary of Homeland
24 Security and the Attorney General shall—

1 (1) determine the States and political subdivi-
2 sions of States that are sanctuary jurisdictions;

3 (2) notify each such State or subdivision that it
4 is determined to be a sanctuary jurisdiction; and

5 (3) publish on the website of the Department of
6 Homeland Security and of the Department of Jus-
7 tice—

8 (A) a list of each sanctuary jurisdiction;

9 (B) the total number of detainers and re-
10 quests for notification of the release of any
11 alien that has been issued or made to each
12 State or political subdivision of a State; and

13 (C) the number of such detainers and re-
14 quests for notification that have been ignored or
15 otherwise not honored, including the name of
16 the jurisdiction in which each such detainer or
17 request for notification was issued or made.

18 (e) CONSTRUCTION.—Nothing in this section may be
19 construed to require law enforcement officials of a State
20 or a political subdivision of a State to provide the Sec-
21 retary of Homeland Security with information related to
22 a victim or a witness to a criminal offense.

1 **SEC. 4. STATE AND LOCAL GOVERNMENT AND INDIVIDUAL**
2 **COMPLIANCE WITH DETAINERS.**

3 (a) **AUTHORITY TO CARRY OUT DETAINERS.**—A
4 State, a political subdivision of a State, or an officer, em-
5 ployee, or agent of such State or political subdivision that
6 complies with a detainer issued by the Department of
7 Homeland Security under section 236 or 287 of the Immi-
8 gration and Nationality Act (8 U.S.C. 1226 and 1357)—

9 (1) shall be deemed to be acting as an agent of
10 the Department of Homeland Security; and

11 (2) shall have the authority available to employ-
12 ees of the Department of Homeland Security with
13 regard to actions taken to comply with the detainer.

14 (b) **LIABILITY.**—In any legal proceeding brought
15 against a State, a political subdivision of State, or an offi-
16 cer, employee, or agent of such State or political subdivi-
17 sion, which challenges the legality of the seizure or deten-
18 tion of an individual pursuant to a detainer issued by the
19 Department of Homeland Security under section 236 or
20 287 of the Immigration and Nationality Act (8 U.S.C.
21 1226 and 1357)—

22 (1) no liability shall lie against the State or po-
23 litical subdivision for actions taken in compliance
24 with the detainer;

1 (2) if the actions of the officer, employee, or
2 agent of the State or political subdivision were taken
3 in compliance with the detainer—

4 (A) the officer, employee, or agent shall be
5 deemed to be an employee of the Federal Gov-
6 ernment and an investigative or law enforce-
7 ment officer and to have been acting within the
8 scope of his or her employment under section
9 1346(b) and chapter 171 of title 28, United
10 States Code;

11 (B) section 1346(b) of title 28, United
12 States Code, shall provide the exclusive remedy
13 for the plaintiff; and

14 (C) the United States shall be substituted
15 as defendant in the proceeding.

16 (c) CONSTRUCTION.—Nothing in this Act may be
17 construed—

18 (1) to provide immunity to any person who
19 knowingly violates the civil or constitutional rights of
20 an individual; or

21 (2) to limit the application of the doctrine of of-
22 ficial immunity or of qualified immunity in a civil
23 action brought against a law enforcement officer act-
24 ing pursuant to a detainer issued by the Department
25 of Homeland Security under section 236 or 287 of

1 the Immigration and Nationality Act (8 U.S.C. 1226
2 and 1357).

3 **SEC. 5. INCREASED PENALTIES FOR REENTRY OF RE-**
4 **MOVED ALIEN.**

5 Section 276 of the Immigration and Nationality Act
6 (8 U.S.C. 1326) is amended—

7 (1) by redesignating subsections (c) and (d) as
8 subsections (d) and (e), respectively;

9 (2) by striking subsections (a) and (b) and in-
10 sserting the following:

11 “(a) IN GENERAL.—Subject to subsections (b) and
12 (c), any alien who—

13 “(1) has been denied admission, excluded, de-
14 ported, or removed or has departed the United
15 States while an order of exclusion, deportation, or
16 removal is outstanding; and

17 “(2) thereafter enters, attempts to enter, or is
18 at any time found in, the United States, unless—

19 “(A) prior to the alien’s reembarkation at
20 a place outside the United States or the alien’s
21 application for admission from foreign contig-
22 uous territory, the Secretary of Homeland Se-
23 curity has expressly consented to such alien’s
24 reapplying for admission; or

1 “(B) with respect to an alien previously de-
2 nied admission and removed, such alien shall
3 establish that the alien was not required to ob-
4 tain such advance consent under this Act or
5 any prior Act;
6 shall be fined under title 18, United States Code, or
7 imprisoned not more than five years, or both.

8 “(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
9 TAIN REMOVED ALIENS.—

10 “(1) IN GENERAL.—Notwithstanding the pen-
11 alty provided in subsection (a), and except as pro-
12 vided in subsection (c), an alien described in sub-
13 section (a)—

14 “(A) who was convicted before such re-
15 moval or departure of three or more mis-
16 demeanors involving drugs, crimes against the
17 person, or both, or a felony (other than an ag-
18 gravated felony), shall be fined under title 18,
19 United States Code, imprisoned not more than
20 10 years, or both;

21 “(B) who has been excluded from the
22 United States pursuant to section 235(c) be-
23 cause the alien was excludable under section
24 212(a)(3)(B) or who has been removed from
25 the United States pursuant to the provisions of

1 title V, and who thereafter, without the permis-
2 sion of the Secretary of Homeland Security, en-
3 ters the United States, or attempts to do so,
4 shall be fined under title 18, United States
5 Code, and imprisoned for a period of 10 years,
6 which sentence shall not run concurrently with
7 any other sentence;

8 “(C) who was removed from the United
9 States pursuant to section 241(a)(4)(B) who
10 thereafter, without the permission of the Sec-
11 retary of Homeland Security, enters, attempts
12 to enter, or is at any time found in, the United
13 States (unless the Secretary of Homeland Secu-
14 rity has expressly consented to such alien’s re-
15 entry) shall be fined under title 18, United
16 States Code, imprisoned for not more than 10
17 years, or both; and

18 “(D) who has been denied admission, ex-
19 cluded, deported, or removed 3 or more times
20 and thereafter enters, attempts to enter, crosses
21 the border to, attempts to cross the border to,
22 or is at any time found in the United States,
23 shall be fined under title 18, United States
24 Code, imprisoned not more than 10 years, or
25 both.

1 “(2) REMOVAL DEFINED.—In this subsection
2 and subsection (c), the term ‘removal’ includes any
3 agreement in which an alien stipulates to removal
4 during (or not during) a criminal trial under either
5 Federal or State law.

6 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
7 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
8 standing the penalties provided in subsections (a) and (b),
9 an alien described in subsection (a)—

10 “(1) who was convicted before such removal or
11 departure of an aggravated felony; or

12 “(2) who was convicted at least two times be-
13 fore such removal or departure of illegal reentry
14 under this section;

15 shall be imprisoned not less than five years and not more
16 than 20 years, and may, in addition, be fined under title
17 18, United States Code.”; and

18 (3) in subsection (d), as redesignated by para-
19 graph (1)—

20 (A) by striking “section 242(h)(2)” and in-
21 serting “section 241(a)(4)”;

22 (B) by striking “Attorney General” and in-
23 serting “Secretary of Homeland Security”.

1 **SEC. 6. SEVERABILITY.**

2 If any provision of this Act or the application of such
3 provision to any person or circumstance is held invalid for
4 any reason, the remainder of this Act, and the application
5 of such provision to other persons not similarly situated
6 or to other circumstances, shall not be affected by such
7 invalidation.