

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0386.01 Debbie Haskins x2045

HOUSE BILL 17-1134

HOUSE SPONSORSHIP

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House Committees

State, Veterans, & Military Affairs
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A BILL FOR AN ACT

101 **CONCERNING HOLDING COLORADO GOVERNMENT ACCOUNTABLE FOR**
102 **CREATING SANCTUARY JURISDICTION POLICIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill is known as the "Colorado Politician Accountability Act". The bill includes a legislative declaration that states that addressing sanctuary jurisdictions is a matter of statewide concern and that makes findings about how sanctuary policies are contrary to federal law and state interests.

The bill creates a civil remedy against the state or a political

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

subdivision of the state (jurisdiction) and against its elected officials for creating sanctuary policies. The bill also creates a crime of rendering assistance to an illegal alien that can be brought against an elected official for creating a sanctuary jurisdiction.

An elected official is responsible for the creation of a sanctuary jurisdiction if the elected official votes in favor of imposing or creating a law, ordinance, or policy that allows the jurisdiction to operate as a sanctuary jurisdiction, fails to take steps to try to change a law, ordinance, or policy that allows the jurisdiction to operate as a sanctuary jurisdiction, or is a county sheriff who imposes or enforces a policy that allows the jurisdiction to operate as a sanctuary jurisdiction in a county in which the elected officials have not voted to impose or create a sanctuary jurisdiction.

The bill allows any person who claims that he or she is a victim of any crime committed by an illegal alien who established residency in a sanctuary jurisdiction to file a civil action for compensatory damages against a jurisdiction and against the elected officials of the jurisdiction who were responsible for creating the policy to operate as a sanctuary jurisdiction. Notwithstanding the protections of the "Colorado Governmental Immunity Act", the jurisdiction and its officials who are responsible for creating a sanctuary jurisdiction are civilly liable for damages if the person who engaged in the criminal activity:

- ! Is determined to be an illegal alien;
- ! Had established residency in the sanctuary jurisdiction; and
- ! Is convicted of the crime that is a proximate cause of the injury to a person or property.

The maximum amount of compensatory damages for injury to persons is \$700,000 per person or \$1,980,000 for injury to 2 or more persons; except that no person may recover in excess of \$700,000. The maximum amount of compensatory damages for injury to property is set at \$350,000 per person or \$990,000 for injury to multiple persons; except that no person may recover in excess of \$350,000.

The bill defines a "sanctuary jurisdiction" as a jurisdiction that adopts a law, ordinance, or policy on or after the effective date of this bill that prohibits or in any way restricts an official or employee of the jurisdiction from:

- ! Cooperating and complying with federal immigration officials or enforcing federal immigration law;
- ! Sending to or receiving from or requesting from federal immigration officials information regarding the citizenship or immigration status, lawful or unlawful, of an individual;
- ! Maintaining or exchanging information about an individual's immigration status, lawful or unlawful, with other federal agencies, state agencies, or municipalities;
- ! Inquiring about an individual's name, date and place of

birth, and immigration status while enforcing or conducting an official investigation into a violation of any law of this state;

- ! Continuing to detain an individual, regardless of the individual's ability to be released on bail, who has been identified as an illegal alien while in custody for violating any state law; or
- ! Verifying the lawful presence and eligibility of a person applying for a state or local public benefit as required by state and federal law.

The bill sets forth the requirements for determining when an illegal alien has established residency in a sanctuary jurisdiction. An "illegal alien" is defined as a person who is not lawfully present within the United States, as determined by federal immigration law.

The governing body of any jurisdiction is prohibited from adopting a law, ordinance, rule, policy, or plan or taking any action that limits or prohibits an elected official, employee, or law enforcement officer from communicating or cooperating with an appropriate public official, employee, or law enforcement officer of the federal government concerning the immigration status of an individual residing in the state. The governing body of a jurisdiction is required to provide written notice to each elected official, employee, and law enforcement officer of the jurisdiction of his or her duty to communicate and cooperate with the federal government concerning enforcement of any federal or state immigration law. The governing body of any jurisdiction in this state is required to annually submit a written report to the department of public safety (department) that the jurisdiction is in compliance with the cooperation and communication requirements. If the department does not receive those written reports, the department is required to provide the name of that jurisdiction to the state controller.

A law enforcement officer of a jurisdiction who has reasonable cause to believe that an individual under arrest is not lawfully present in the United States shall immediately report the individual to the appropriate U.S. immigration and customs enforcement office (ICE) within the department of homeland security. The governing body of any jurisdiction is required to report annually to the department on the number of individuals who were reported to ICE by law enforcement officers from that jurisdiction. The department is directed to compile and submit annual reports on compliance to the general assembly and to the state controller. The state controller is required to withhold the payment of any state funds to any jurisdiction that is found by the department to have failed to comply with these reporting requirements. The state controller shall withhold funds until the department notifies the state controller that the jurisdiction is in compliance.

The bill creates the crime of rendering assistance to an illegal alien

1 **13-21-1301. Legislative declaration.** (1) THE GENERAL
2 ASSEMBLY FINDS AND DECLARES THAT IT IS NECESSARY TO ENSURE
3 CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS PART 13
4 THROUGHOUT THE STATE AND THAT, THEREFORE, EXCEPT AS OTHERWISE
5 SPECIFIED IN THIS ARTICLE 21, ADDRESSING SANCTUARY JURISDICTIONS AS
6 OUTLINED IN THIS ARTICLE 21 IS DECLARED TO BE A MATTER OF
7 STATEWIDE CONCERN.

8 (2) THE GENERAL ASSEMBLY FINDS THAT:

9 (a) SANCTUARY POLICIES THAT RESTRICT, OBSTRUCT, OR
10 DISCOURAGE COOPERATION WITH FEDERAL IMMIGRATION AUTHORITIES
11 ARE PROHIBITED BY FEDERAL LAW, FOR EXAMPLE, UNDER 8 U.S.C. SEC.
12 1373 (a), WHICH STATES THAT "A FEDERAL, STATE, OR LOCAL
13 GOVERNMENT ENTITY OR OFFICIAL MAY NOT PROHIBIT, OR IN ANY WAY
14 RESTRICT, ANY GOVERNMENT ENTITY OR OFFICIAL FROM SENDING TO, OR
15 RECEIVING FROM, THE IMMIGRATION AND NATURALIZATION SERVICE
16 INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS,
17 LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL.";

18 (b) THE PRESIDENT OF THE UNITED STATES ON JANUARY 25, 2017,
19 ISSUED AN EXECUTIVE ORDER CONCERNING SANCTUARY JURISDICTIONS,
20 WHICH STATES THAT IT IS THE POLICY OF THE EXECUTIVE BRANCH TO
21 ENSURE, TO THE FULLEST EXTENT OF THE LAW, THAT A STATE, OR A
22 POLITICAL SUBDIVISION OF A STATE, SHALL COMPLY WITH 8 U.S.C. SEC.
23 1373. SUBSECTION (9)(a) OF THE EXECUTIVE ORDER STATES: "IN
24 FURTHERANCE OF THIS POLICY, THE ATTORNEY GENERAL AND THE
25 SECRETARY, IN THEIR DISCRETION AND TO THE EXTENT CONSISTENT WITH
26 LAW, SHALL ENSURE THAT JURISDICTIONS THAT WILLFULLY REFUSE TO
27 COMPLY WITH 8 U.S.C. 1373 (SANCTUARY JURISDICTIONS) ARE NOT

1 ELIGIBLE TO RECEIVE FEDERAL GRANTS, EXCEPT AS DEEMED NECESSARY
2 FOR LAW ENFORCEMENT PURPOSES BY THE ATTORNEY GENERAL OR THE
3 SECRETARY. THE SECRETARY HAS THE AUTHORITY TO DESIGNATE, IN HIS
4 DISCRETION AND TO THE EXTENT CONSISTENT WITH LAW, A JURISDICTION
5 AS A SANCTUARY JURISDICTION. THE ATTORNEY GENERAL SHALL TAKE
6 APPROPRIATE ENFORCEMENT ACTION AGAINST ANY ENTITY THAT
7 VIOLATES 8 U.S.C. 1373, OR WHICH HAS IN EFFECT A STATUTE, POLICY, OR
8 PRACTICE THAT PREVENTS OR HINDERS THE ENFORCEMENT OF FEDERAL
9 LAW."

10 (c) THE MAJORITY OPINION OF JUSTICE ANTHONY KENNEDY IN THE
11 2012 UNITED STATES SUPREME COURT DECISION *ARIZONA V. UNITED*
12 *STATES*, 567 U.S. ___, 132 S. CT. 2492 (2012), HELD THAT UNDER THE U.S.
13 CONSTITUTION THE FEDERAL GOVERNMENT HAS SUPREMACY AND
14 PREEMPTIVE AUTHORITY TO LEGISLATE ON IMMIGRATION MATTERS AND
15 THAT STATES MAY NOT AUGMENT PENALTIES PLACED ON ILLEGAL
16 IMMIGRANTS OR EMPLOYERS WHO VIOLATE FEDERAL IMMIGRATION LAWS;

17 (d) THE SUPREME COURT ALSO STATED IN *ARIZONA V. UNITED*
18 *STATES* THAT "CONSULTATION BETWEEN FEDERAL AND STATE OFFICIALS
19 IS AN IMPORTANT FEATURE OF THE IMMIGRATION SYSTEM" AND THAT THE
20 U.S. CONGRESS "HAS ENCOURAGED THE SHARING OF INFORMATION ABOUT
21 POSSIBLE IMMIGRATION VIOLATIONS", CITING TO 8 U.S.C. SEC. 1357
22 (g)(10)(A);

23 (e) THE CITIZENS OF COLORADO ADOPTED REFERENDUM "K" IN
24 THE GENERAL ELECTION OF NOVEMBER 2006, WHICH DIRECTED THE
25 COLORADO ATTORNEY GENERAL TO SUE THE FEDERAL GOVERNMENT TO
26 "DEMAND ENFORCEMENT OF EXISTING FEDERAL IMMIGRATION LAWS",
27 AND, WHILE THAT LAWSUIT WAS FILED AND LATER DISMISSED BY A

1 FEDERAL DISTRICT COURT AS BEING A POLITICAL QUESTION, THE VOTERS'
2 ACTION STANDS AS AN EXPRESSION OF THEIR CONCERN ABOUT THE IMPACT
3 UPON THIS STATE OF WEAKLY ENFORCED FEDERAL IMMIGRATION LAWS;

4 (f) THE COLORADO DEPARTMENT OF CORRECTIONS DETERMINED
5 AND REPORTED IN 2007 THAT THE FEDERAL GRANT REIMBURSEMENT TO
6 THE STATE TO HELP DEFRAY THE COSTS OF INCARCERATING CRIMINAL
7 ALIENS IN THE STATE CORRECTIONAL SYSTEM WAS LESS THAN NINE CENTS
8 ON THE DOLLAR COMPARED TO THE TRUE COSTS OF INCARCERATING
9 CRIMINAL ALIENS;

10 (g) IN 2007, THE COLORADO HOUSE OF REPRESENTATIVES PASSED
11 HOUSE RESOLUTION 07-1008, WHICH URGED THE GOVERNOR AND THE
12 ATTORNEY GENERAL OF THE STATE OF COLORADO TO INSTITUTE AN
13 ACTION IN FEDERAL DISTRICT COURT TO COMPEL THE FEDERAL BUREAU OF
14 JUSTICE ASSISTANCE TO REIMBURSE THE STATE OF COLORADO AND LOCAL
15 GOVERNMENTS FOR ALL COSTS ASSOCIATED WITH THE INCARCERATION OF
16 UNDOCUMENTED FOREIGN NATIONALS.

17 (h) THE COLORADO DEPARTMENT OF CORRECTIONS HAS REPORTED
18 THAT IN FISCAL YEAR 2016, THE STATE CORRECTIONS SYSTEM RECEIVED
19 A GRANT FROM THE UNITED STATES DEPARTMENT OF JUSTICE IN THE
20 AMOUNT OF \$2,077,720 IN RECOGNITION OF THE COSTS OF INCARCERATING
21 2,039 CRIMINAL ALIEN INMATES, OR 14.7% OF ALL DEPARTMENT OF
22 CORRECTIONS INMATES. SINCE THE REPORTED AVERAGE COST PER
23 OFFENDER WAS \$37,958 ANNUALLY IN THE STATE CORRECTIONS SYSTEM
24 IN 2016, THE TRUE COST OF INCARCERATION FOR 2,039 CRIMINAL ALIEN
25 INMATES WAS \$77,396,362, WHICH MEANS THAT THE FEDERAL GRANT
26 COVERED ONLY 2.7% OF THE TRUE INCARCERATION COSTS -- OR LESS THAN
27 THREE CENTS ON THE DOLLAR -- AND LEAVES COLORADO WITH A NET,

1 UNREIMBURSED COST TO COLORADO TAXPAYERS OF \$75,318,642 IN
2 FISCAL YEAR 2016.

3 (i) ON JULY 6, 2016, THE UNITED STATES DEPARTMENT OF JUSTICE
4 ANNOUNCED THAT GRANT APPLICATIONS FROM ANY PRIVATE OR PUBLIC
5 ENTITY MUST CONTAIN A WRITTEN CERTIFICATION THAT THE BODY IS IN
6 FULL COMPLIANCE WITH ALL FEDERAL LAWS; AND

7 (j) RECOGNIZING THE SUPREMACY OF ALL FEDERAL LAW
8 PERTAINING TO IMMIGRATION, INCLUDING THE PROVISIONS OF 8 U.S.C.
9 SEC. 1324, WHICH PROHIBITS THE PHYSICAL HARBORING OF PERSONS
10 KNOWN TO BE UNLAWFULLY PRESENT IN THE UNITED STATES, THE STATE
11 OF COLORADO DECLARES THAT IT IS INAPPROPRIATE AND CONTRARY TO
12 THE PUBLIC SAFETY AND WELFARE FOR ANY PUBLIC OFFICIAL AT ANY
13 LEVEL OF GOVERNMENT TO ENCOURAGE, ENDORSE, OR IN ANY WAY
14 SUPPORT ANY PUBLIC OR PRIVATE ORGANIZATION SEEKING TO OFFER
15 SO-CALLED "SANCTUARY PROTECTION" TO PERSONS NOT LAWFULLY
16 PRESENT IN THE UNITED STATES.

17 (3) THE GENERAL ASSEMBLY DECLARES THAT SANCTUARY
18 POLICIES ADOPTED BY A CITY, COUNTY, OR OTHER JURISDICTION THAT
19 DIRECT EMPLOYEES NOT TO COOPERATE WITH FEDERAL IMMIGRATION
20 OFFICERS OR THAT PROTECT ALIENS THAT ARE NOT LAWFULLY PRESENT IN
21 THE UNITED STATES ARE CONTRARY TO FEDERAL LAW AND STATE
22 INTERESTS AND ARE CONTRARY TO THE SAFETY AND WELFARE OF THE
23 PEOPLE OF COLORADO. THE GENERAL ASSEMBLY, THEREFORE, DECLARES
24 THAT IT IS IN THE BEST INTERESTS OF THIS STATE TO PROHIBIT LOCAL
25 GOVERNMENTS FROM CREATING SANCTUARY POLICIES.

26 **13-21-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY.

2 (2) "ELECTED OFFICIAL" MEANS A MEMBER OF THE GENERAL
3 ASSEMBLY; THE STATE BOARD OF EDUCATION; THE STATE BOARD OF
4 REGENTS; A BOARD OF COUNTY COMMISSIONERS; THE GOVERNING BODY
5 OF A MUNICIPALITY, SCHOOL DISTRICT, OR OTHER LOCAL GOVERNMENT; OR
6 A COUNTY SHERIFF.

7 (3) "ILLEGAL ALIEN" MEANS AN INDIVIDUAL WHO IS NOT
8 LAWFULLY PRESENT WITHIN THE UNITED STATES, AS DETERMINED BY
9 FEDERAL IMMIGRATION LAW.

10 (4) "JURISDICTION" MEANS THE STATE OR A POLITICAL
11 SUBDIVISION THEREOF ORGANIZED PURSUANT TO LAW, INCLUDING ANY
12 COUNTY; CITY AND COUNTY; CITY; MUNICIPALITY; SCHOOL DISTRICT,
13 SPECIAL DISTRICT, OR ANY OTHER DISTRICT; AGENCY; INSTRUMENTALITY;
14 LAW ENFORCEMENT AGENCY; AND ANY STATE INSTITUTION OF HIGHER
15 EDUCATION.

16 (5) "RESPONSIBLE FOR CREATING A SANCTUARY JURISDICTION"
17 MEANS AN ELECTED OFFICIAL OF A JURISDICTION WHO VOTES IN FAVOR OF
18 IMPOSING OR CREATING A LAW, ORDINANCE, OR POLICY THAT ALLOWS THE
19 JURISDICTION TO OPERATE AS A SANCTUARY JURISDICTION, FAILS TO TAKE
20 STEPS TO TRY TO CHANGE A LAW, ORDINANCE, OR POLICY THAT ALLOWS
21 THE JURISDICTION TO OPERATE AS A SANCTUARY JURISDICTION, OR IS A
22 COUNTY SHERIFF WHO IMPOSES OR ENFORCES A POLICY THAT ALLOWS THE
23 JURISDICTION TO OPERATE AS A SANCTUARY JURISDICTION IN A COUNTY
24 IN WHICH THE ELECTED OFFICIALS HAVE NOT VOTED TO IMPOSE OR CREATE
25 A SANCTUARY JURISDICTION.

26 (6) "SANCTUARY JURISDICTION" MEANS A JURISDICTION THAT
27 ADOPTS A LAW, ORDINANCE, OR POLICY ON OR AFTER THE EFFECTIVE DATE

1 OF THIS SECTION THAT PROHIBITS OR IN ANY WAY RESTRICTS AN OFFICIAL
2 OR EMPLOYEE OF THE JURISDICTION FROM:

3 (a) COOPERATING AND COMPLYING WITH FEDERAL IMMIGRATION
4 OFFICIALS OR ENFORCING FEDERAL IMMIGRATION LAW;

5 (b) SENDING TO OR RECEIVING OR REQUESTING FROM FEDERAL
6 IMMIGRATION OFFICIALS INFORMATION REGARDING THE CITIZENSHIP OR
7 IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF AN INDIVIDUAL;

8 (c) ENGAGING IN ANY OF THE FOLLOWING ACTIVITIES WITH
9 RESPECT TO INFORMATION REGARDING THE IMMIGRATION STATUS, LAWFUL
10 OR UNLAWFUL, OF AN INDIVIDUAL:

11 (I) SENDING THE INFORMATION TO OR REQUESTING THE
12 INFORMATION FROM FEDERAL IMMIGRATION OFFICIALS;

13 (II) MAINTAINING THE INFORMATION; OR

14 (III) EXCHANGING THE INFORMATION WITH OTHER FEDERAL
15 AGENCIES, STATE AGENCIES, OR MUNICIPALITIES;

16 (d) INQUIRING ABOUT AN INDIVIDUAL'S NAME, DATE AND PLACE OF
17 BIRTH, AND IMMIGRATION STATUS WHILE ENFORCING OR CONDUCTING AN
18 OFFICIAL INVESTIGATION INTO A VIOLATION OF ANY LAW OF THIS STATE;

19 (e) CONTINUING TO DETAIN AN INDIVIDUAL, REGARDLESS OF THE
20 INDIVIDUAL'S ABILITY TO BE RELEASED ON BAIL, WHO HAS BEEN
21 IDENTIFIED AS AN ILLEGAL ALIEN WHILE IN CUSTODY FOR VIOLATING ANY
22 LAW OF THIS STATE; OR

23 (f) VERIFYING THE LAWFUL PRESENCE AND ELIGIBILITY OF A
24 PERSON WHO APPLIES FOR A STATE OR LOCAL PUBLIC BENEFIT, AS DEFINED
25 BY SECTION 411 (c) OF THE FEDERAL "PERSONAL RESPONSIBILITY AND
26 WORK OPPORTUNITY RECONCILIATION ACT OF 1996", PUB. L. 104-193,
27 8 U.S.C. SEC. 1621 (c), AS AMENDED, AND AS REQUIRED BY SECTION

1 24-76.5-103.

2 **13-21-1303. Determination of residency.** (1) UNDER THIS PART
3 13, AN ILLEGAL ALIEN IS A RESIDENT OF A SANCTUARY JURISDICTION IF:

4 (a) (I) THE PRINCIPAL OR PRIMARY HOME OR PLACE OF ABODE OF
5 THE PERSON IS WITHIN THE SANCTUARY JURISDICTION. A PRINCIPAL OR
6 PRIMARY HOME OR PLACE OF ABODE IS THAT HOME OR PLACE IN WHICH A
7 PERSON'S HABITATION IS FIXED AND TO WHICH THAT PERSON, WHENEVER
8 ABSENT, HAS THE PRESENT INTENTION OF RETURNING AFTER A DEPARTURE
9 OR ABSENCE, REGARDLESS OF THE DURATION OF THE ABSENCE. A HOME OR
10 PLACE OF ABODE IS A PERMANENT BUILDING OR PART OF A BUILDING AND
11 MAY INCLUDE A HOUSE, CONDOMINIUM, APARTMENT, MOBILE HOME, OR
12 A ROOM IN ONE OF THOSE STRUCTURES. A VACANT LOT OR BUSINESS
13 ADDRESS MAY ALSO BE CONSIDERED A HOME OR PLACE OF ABODE.

14 (II) IN DETERMINING WHAT IS THE PRINCIPAL OR PRIMARY PLACE
15 OF ABODE OF AN ILLEGAL ALIEN, THE FOLLOWING CIRCUMSTANCES
16 RELATING TO THE ILLEGAL ALIEN SHALL BE TAKEN INTO ACCOUNT:
17 BUSINESS PURSUITS; EMPLOYMENT; INCOME SOURCES; AGE; MARITAL
18 STATUS; RESIDENCE OF PARENTS, SPOUSE, OR PARTNER, AND CHILDREN, IF
19 ANY; LEASEHOLDS; LOCATION OF PERSONAL AND REAL PROPERTY;
20 EXISTENCE OF ANY OTHER RESIDENCE AND THE AMOUNT OF TIME SPENT AT
21 EACH RESIDENCE; AND MOTOR VEHICLE REGISTRATION; OR

22 (b) THE PERSON IS HOMELESS, AND THE MAILING ADDRESS OF THE
23 PERSON IS WITHIN THE SANCTUARY JURISDICTION. THE MAILING ADDRESS
24 OF A HOMELESS PERSON MAY INCLUDE THE MAILING ADDRESS OF A
25 SHELTER, A HOMELESS SERVICE PROVIDER, OR A PRIVATE RESIDENCE.

26 (2) AN ILLEGAL ALIEN IS ALSO CONSIDERED A RESIDENT OF ANY
27 LOCATION IF HE OR SHE STAYS, LIVES, WORKS, INHABITS, OR ENGAGES IN

1 LEISURE ACTIVITIES BECAUSE OF ANY PERCEIVED SANCTUARY
2 JURISDICTION BENEFIT HE OR SHE MAY ENJOY IN ORDER TO CONTINUE
3 VIOLATING FEDERAL IMMIGRATION LAW.

4 **13-21-1304. Civil liability imposed upon jurisdictions that**
5 **create a sanctuary jurisdiction - standing to sue - exceptions to**

6 **governmental immunity.** (1) NOTWITHSTANDING THE PROTECTIONS OF
7 THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ANY PERSON WHO
8 CLAIMS THAT HE OR SHE IS A VICTIM OF ANY CRIME COMMITTED BY AN
9 ILLEGAL ALIEN WHO ESTABLISHED RESIDENCY IN A SANCTUARY
10 JURISDICTION AND THAT HE OR SHE HAS SUFFERED A PERSONAL INJURY OR
11 INJURY TO REAL OR PERSONAL PROPERTY AS A RESULT OF THAT CRIME HAS
12 STANDING TO FILE AN ACTION FOR AND IS ENTITLED TO COMPENSATORY
13 DAMAGES AGAINST THE SANCTUARY JURISDICTION AND AGAINST THE
14 ELECTED OFFICIALS OF THE JURISDICTION WHO ARE RESPONSIBLE FOR
15 CREATING THE SANCTUARY JURISDICTION. WHEN THE CLAIM IS ONE FOR
16 DEATH BY WRONGFUL ACT OR OMISSION, THE ACTION MAY BE FILED BY
17 THE PERSONAL REPRESENTATIVE, SURVIVING SPOUSE, OR NEXT OF KIN OF
18 THE DECEASED.

19 (2) NOTWITHSTANDING THE PROTECTIONS OF THE "COLORADO
20 GOVERNMENTAL IMMUNITY ACT", A SANCTUARY JURISDICTION IS LIABLE
21 AND ALL ELECTED OFFICIALS WHO ARE RESPONSIBLE FOR CREATING A
22 SANCTUARY JURISDICTION ARE INDIVIDUALLY LIABLE FOR DAMAGES ON
23 ACCOUNT OF AN INJURY TO A PERSON OR PROPERTY AS A RESULT OF
24 CRIMINAL ACTIVITY BY AN ILLEGAL ALIEN IF:

25 (a) THE PERSON WHO ENGAGED IN THE CRIMINAL ACTIVITY IS
26 DETERMINED TO BE AN ILLEGAL ALIEN, AS LEGALLY DEFINED BY FEDERAL
27 IMMIGRATION LAW;

1 (b) THE PERSON WHO ENGAGED IN THE CRIMINAL ACTIVITY HAD
2 ESTABLISHED RESIDENCY IN A SANCTUARY JURISDICTION, AS SPECIFIED IN
3 SECTION 13-21-1303;

4 (c) THE PERSON IS CONVICTED OF THE CRIME THAT CAUSED THE
5 INJURY TO A PERSON OR PROPERTY; AND

6 (d) THE CRIMINAL ACTIVITY IS A PROXIMATE CAUSE OF THE INJURY
7 TO THE PERSON OR TO THE PERSON'S PROPERTY.

8 (3) (a) THE MAXIMUM AMOUNT THAT MAY BE RECOVERED IN
9 COMPENSATORY DAMAGES UNDER THIS SECTION IN ANY SINGLE
10 OCCURRENCE FROM A SANCTUARY JURISDICTION AND FROM ITS ELECTED
11 OFFICIALS IS:

12 (I) FOR ANY PROPERTY DAMAGE INCURRED BY ONE PERSON IN ANY
13 SINGLE OCCURRENCE, THE SUM OF THREE HUNDRED FIFTY THOUSAND
14 DOLLARS;

15 (II) FOR ANY PROPERTY DAMAGE INCURRED BY TWO OR MORE
16 PERSONS IN ANY SINGLE OCCURRENCE, THE SUM OF NINE HUNDRED NINETY
17 THOUSAND DOLLARS; EXCEPT THAT IN SUCH INSTANCE, NO PERSON MAY
18 RECOVER IN EXCESS OF THREE HUNDRED FIFTY THOUSAND DOLLARS;

19 (III) FOR ANY PERSONAL INJURY TO ONE PERSON IN ANY SINGLE
20 OCCURRENCE, THE SUM OF SEVEN HUNDRED THOUSAND DOLLARS;

21 (IV) FOR ANY PERSONAL INJURY TO TWO OR MORE PERSONS IN ANY
22 SINGLE OCCURRENCE, THE SUM OF ONE MILLION NINE HUNDRED EIGHTY
23 THOUSAND DOLLARS; EXCEPT THAT IN SUCH INSTANCE, NO PERSON MAY
24 RECOVER IN EXCESS OF SEVEN HUNDRED THOUSAND DOLLARS.

25 (b) THE AMOUNTS SPECIFIED IN SUBSECTION (3)(a) OF THIS
26 SECTION SHALL BE ADJUSTED AND CERTIFIED BY THE SECRETARY OF STATE
27 IN THE SAME MANNER AS THE ADJUSTMENTS ARE MADE TO THE

1 LIMITATIONS ON DAMAGES SPECIFIED FOR THE "COLORADO
2 GOVERNMENTAL IMMUNITY ACT" IN SECTION 24-10-114 (1)(b).

3 (4) A SANCTUARY JURISDICTION OR AN ELECTED OFFICIAL
4 RESPONSIBLE FOR CREATING A SANCTUARY JURISDICTION SHALL NOT
5 ASSERT GOVERNMENTAL IMMUNITY AS A DEFENSE TO AN ACTION BROUGHT
6 UNDER THIS SECTION.

7 **13-21-1305. Restriction on jurisdictions regulating official and**
8 **employee communications relating to immigration status - notice to**
9 **officials and employees - reports on compliance - penalty for**
10 **noncompliance. (1) Restriction on communications and cooperation.**

11 THE GOVERNING BODY OF ANY JURISDICTION MAY NOT ADOPT A LAW,
12 ORDINANCE, RULE, POLICY, OR PLAN OR TAKE ANY ACTION THAT LIMITS OR
13 PROHIBITS AN ELECTED OFFICIAL, EMPLOYEE, OR LAW ENFORCEMENT
14 OFFICER OF THE JURISDICTION FROM COMMUNICATING OR COOPERATING
15 WITH AN APPROPRIATE PUBLIC OFFICIAL, EMPLOYEE, OR LAW
16 ENFORCEMENT OFFICER OF THE FEDERAL GOVERNMENT CONCERNING THE
17 IMMIGRATION STATUS OF AN INDIVIDUAL LOCATED IN THE STATE OF
18 COLORADO.

19 (2) **Notice to officials, employees, and law enforcement**
20 **officers.** THE GOVERNING BODY OF A JURISDICTION SHALL PROVIDE
21 WRITTEN NOTICE TO EACH ELECTED OFFICIAL, EMPLOYEE, AND LAW
22 ENFORCEMENT OFFICER OF THE JURISDICTION OF HIS OR HER DUTY TO
23 COMMUNICATE AND COOPERATE WITH AN APPROPRIATE PUBLIC OFFICIAL,
24 EMPLOYEE, OR LAW ENFORCEMENT OFFICER OF THE FEDERAL
25 GOVERNMENT CONCERNING ENFORCEMENT OF ANY FEDERAL OR STATE
26 IMMIGRATION LAW.

27 (3) (a) **Compliance reports.** ON OR BEFORE JANUARY 1, 2018,

1 AND ON OR BEFORE JANUARY 1 OF EACH YEAR THEREAFTER, THE
2 GOVERNING BODY OF EACH JURISDICTION IN THIS STATE SHALL SUBMIT A
3 WRITTEN REPORT TO THE DEPARTMENT THAT INDICATES THAT THE
4 JURISDICTION IS IN COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION
5 (1) OF THIS SECTION.

6 (b) IF THE DEPARTMENT DOES NOT RECEIVE A TIMELY REPORT
7 FROM A JURISDICTION AS REQUIRED IN SUBSECTION (3)(a) OF THIS
8 SECTION, THE DEPARTMENT SHALL PROVIDE THE NAME OF THAT
9 JURISDICTION TO THE STATE CONTROLLER.

10 (4) **Duty of law enforcement officers.** A LAW ENFORCEMENT
11 OFFICER OF A JURISDICTION WHO HAS REASONABLE CAUSE TO BELIEVE
12 THAT AN INDIVIDUAL UNDER ARREST IS NOT LAWFULLY PRESENT IN THE
13 UNITED STATES SHALL IMMEDIATELY REPORT THE INDIVIDUAL TO THE
14 APPROPRIATE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT
15 OFFICE WITHIN THE DEPARTMENT OF HOMELAND SECURITY, OR ANY
16 SUCCESSOR DEPARTMENT.

17 (5) **Annual report.** (a) ON OR BEFORE MARCH 1, 2018, AND ON
18 OR BEFORE MARCH 1 OF EACH YEAR THEREAFTER, THE GOVERNING BODY
19 OF EACH JURISDICTION IN THIS STATE SHALL REPORT TO THE DEPARTMENT
20 THE NUMBER OF REPORTS MADE BY LAW ENFORCEMENT OFFICERS OF THAT
21 JURISDICTION AS REQUIRED BY SUBSECTION (4) OF THIS SECTION.

22 (b) IF THE DEPARTMENT DOES NOT RECEIVE A TIMELY REPORT
23 FROM A JURISDICTION IN THIS STATE AS REQUIRED BY SUBSECTION (5)(a)
24 OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE NAME OF THE
25 JURISDICTION TO THE STATE CONTROLLER.

26 (c) ON OR BEFORE APRIL 1, 2018, AND ON OR BEFORE APRIL 1 OF
27 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL COMPILE THE

1 COMPLIANCE REPORTS RECEIVED UNDER SUBSECTION (3) OF THIS SECTION
2 AND UNDER THIS SUBSECTION (5). THE DEPARTMENT SHALL SUBMIT AN
3 ANNUAL REPORT BASED ON THIS INFORMATION TO THE GENERAL
4 ASSEMBLY AND TO THE STATE CONTROLLER, INCLUDING A LIST OF THOSE
5 JURISDICTIONS THAT DID NOT SUBMIT A COMPLIANCE REPORT OR AN
6 ANNUAL REPORT. NOTWITHSTANDING THE REQUIREMENT IN SECTION
7 24-1-136 (11), THE REQUIREMENT TO SUBMIT THE REPORT TO THE
8 GENERAL ASSEMBLY REQUIRED IN THIS SECTION CONTINUES INDEFINITELY.

9 (6) **Penalty for noncompliance.** NOTWITHSTANDING ANY OTHER
10 PROVISION OF LAW TO THE CONTRARY, THE STATE CONTROLLER SHALL
11 WITHHOLD THE PAYMENT OF STATE FUNDS TO ANY JURISDICTION THAT THE
12 DEPARTMENT HAS REPORTED TO THE STATE CONTROLLER AS HAVING NOT
13 COMPLIED WITH THIS SECTION UNTIL SUCH TIME AS THE JURISDICTION
14 COMPLIES WITH THIS SECTION AND THE DEPARTMENT NOTIFIES THE STATE
15 CONTROLLER OF SUCH COMPLIANCE.

16 **SECTION 3.** In Colorado Revised Statutes, **add** 18-8-107.5 and
17 18-8-107.6 as follows:

18 **18-8-107.5. Rendering assistance to an illegal alien through a**
19 **sanctuary jurisdiction - officials - definitions.** (1) A PERSON WHO IS AN
20 ELECTED OFFICIAL OF A SANCTUARY JURISDICTION COMMITS RENDERING
21 ASSISTANCE TO AN ILLEGAL ALIEN THROUGH A SANCTUARY JURISDICTION
22 IF, WITH INTENT TO HINDER, DELAY, OR PREVENT THE DISCOVERY,
23 DETECTION, APPREHENSION, PROSECUTION, CONVICTION, OR PUNISHMENT
24 OF ILLEGAL ALIENS WITHIN THE SANCTUARY JURISDICTION:

25 (a) HE OR SHE WAS RESPONSIBLE FOR CREATING A SANCTUARY
26 JURISDICTION IN THE JURISDICTION TO WHICH THE OFFICIAL IS ELECTED;
27 AND

1 (b) AS A RESULT OF THE PROTECTION AFFORDED BY THE
2 SANCTUARY JURISDICTION, A THIRD PERSON ENGAGES IN CRIMINAL
3 ACTIVITY, AND THE THIRD PERSON:

4 (I) IS AN ILLEGAL ALIEN AS LEGALLY DEFINED BY FEDERAL
5 IMMIGRATION LAW;

6 (II) HAD ESTABLISHED RESIDENCY IN THE SANCTUARY
7 JURISDICTION THAT WAS CREATED BY THE ELECTED OFFICIAL; AND

8 (III) HAS BEEN CONVICTED OF A CRIME THAT CAUSED INJURY TO
9 A PERSON OR TO PROPERTY.

10 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "ELECTED OFFICIAL" MEANS A MEMBER OF THE GENERAL
13 ASSEMBLY; THE STATE BOARD OF EDUCATION; THE STATE BOARD OF
14 REGENTS; A BOARD OF COUNTY COMMISSIONERS; THE GOVERNING BODY
15 OF A MUNICIPALITY, SCHOOL DISTRICT, OR OTHER LOCAL GOVERNMENT; OR
16 A COUNTY SHERIFF.

17 (b) "ILLEGAL ALIEN" MEANS AN INDIVIDUAL WHO IS NOT
18 LAWFULLY PRESENT WITHIN THE UNITED STATES AS DETERMINED BY
19 FEDERAL IMMIGRATION LAW.

20 (c) "JURISDICTION" MEANS THE STATE OR A POLITICAL
21 SUBDIVISION THEREOF ORGANIZED PURSUANT TO LAW, INCLUDING ANY
22 COUNTY; CITY AND COUNTY; CITY; MUNICIPALITY; SCHOOL DISTRICT,
23 SPECIAL DISTRICT, OR ANY OTHER DISTRICT; AGENCY; INSTRUMENTALITY;
24 LAW ENFORCEMENT AGENCY; AND ANY STATE INSTITUTION OF HIGHER
25 EDUCATION.

26 (d) "RESPONSIBLE FOR CREATING A SANCTUARY JURISDICTION"
27 MEANS AN ELECTED OFFICIAL OF A JURISDICTION WHO VOTES IN FAVOR OF

1 IMPOSING OR CREATING A LAW, ORDINANCE, OR POLICY THAT ALLOWS THE
2 JURISDICTION TO OPERATE AS A SANCTUARY JURISDICTION, FAILS TO TAKE
3 STEPS TO TRY TO CHANGE A LAW, ORDINANCE, OR POLICY THAT ALLOWS
4 THE JURISDICTION TO OPERATE AS A SANCTUARY JURISDICTION, OR IS A
5 COUNTY SHERIFF WHO IMPOSES OR ENFORCES A POLICY THAT ALLOWS THE
6 JURISDICTION TO OPERATE AS A SANCTUARY JURISDICTION IN A COUNTY
7 IN WHICH THE ELECTED OFFICIALS HAVE NOT VOTED TO IMPOSE OR CREATE
8 A SANCTUARY JURISDICTION.

9 (e) "SANCTUARY JURISDICTION" MEANS A JURISDICTION THAT
10 ADOPTS A LAW, ORDINANCE, OR POLICY ON OR AFTER THE EFFECTIVE DATE
11 OF THIS SECTION THAT PROHIBITS OR IN ANY WAY RESTRICTS AN OFFICIAL
12 OR EMPLOYEE OF THE JURISDICTION FROM:

13 (I) COOPERATING AND COMPLYING WITH FEDERAL IMMIGRATION
14 OFFICIALS OR ENFORCING FEDERAL IMMIGRATION LAW;

15 (II) SENDING TO OR RECEIVING OR REQUESTING FROM FEDERAL
16 IMMIGRATION OFFICIALS INFORMATION REGARDING THE CITIZENSHIP OR
17 IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF AN INDIVIDUAL;

18 (III) ENGAGING IN ANY OF THE FOLLOWING ACTIVITIES WITH
19 RESPECT TO INFORMATION REGARDING THE IMMIGRATION STATUS, LAWFUL
20 OR UNLAWFUL, OF AN INDIVIDUAL:

21 (A) SENDING THE INFORMATION TO OR REQUESTING THE
22 INFORMATION FROM FEDERAL IMMIGRATION OFFICIALS;

23 (B) MAINTAINING THE INFORMATION; OR

24 (C) EXCHANGING THE INFORMATION WITH OTHER FEDERAL
25 AGENCIES, STATE AGENCIES, OR MUNICIPALITIES;

26 (IV) INQUIRING ABOUT AN INDIVIDUAL'S NAME, DATE AND PLACE
27 OF BIRTH, AND IMMIGRATION STATUS WHILE ENFORCING OR CONDUCTING

1 AN OFFICIAL INVESTIGATION INTO A VIOLATION OF ANY LAW OF THIS
2 STATE;

3 (V) CONTINUING TO DETAIN AN INDIVIDUAL, REGARDLESS OF THE
4 INDIVIDUAL'S ABILITY TO BE RELEASED ON BAIL, WHO HAS BEEN
5 IDENTIFIED AS AN ILLEGAL ALIEN WHILE IN CUSTODY FOR VIOLATING ANY
6 LAW OF THIS STATE; OR

7 (VI) VERIFYING THE LAWFUL PRESENCE AND ELIGIBILITY OF A
8 PERSON WHO APPLIES FOR A STATE OR LOCAL PUBLIC BENEFIT, AS DEFINED
9 BY SECTION 411 (c) OF THE FEDERAL "PERSONAL RESPONSIBILITY AND
10 WORK OPPORTUNITY RECONCILIATION ACT OF 1996", PUB. L. 104-193,
11 8 U.S.C. SEC. 1621 (c), AS AMENDED, AND AS REQUIRED BY SECTION
12 24-76.5-103.

13 (3) RENDERING ASSISTANCE TO AN ILLEGAL ALIEN THROUGH A
14 SANCTUARY JURISDICTION IS A CLASS 4 FELONY.

15 **18-8-107.6. Filing of an affidavit alleging a criminal violation**
16 **relating to a sanctuary jurisdiction - impaneling of grand jury.**

17 (1) ANY PERSON WHO HAS KNOWLEDGE OF A CRIME COMMITTED BY AN
18 ILLEGAL ALIEN AS A RESULT OF THE CREATION OF A SANCTUARY
19 JURISDICTION, AS DEFINED IN SECTION 18-8-107.5, MAY FILE AN AFFIDAVIT
20 OUTLINING THE CRIME AND ALLEGING THAT THE CRIME IS A VIOLATION OF
21 SECTION 18-8-107.5. THE PERSON MAY FILE THE AFFIDAVIT WITH THE
22 STATE ATTORNEY GENERAL'S OFFICE IF THERE IS A NEED TO IMPANEL A
23 STATEWIDE GRAND JURY THAT HAS JURISDICTION EXTENDING BEYOND THE
24 BOUNDARIES OF ANY SINGLE COUNTY OR WITH THE DISTRICT ATTORNEY OF
25 THE APPLICABLE JUDICIAL DISTRICT IN WHICH THE CRIME WAS ALLEGED TO
26 HAVE BEEN COMMITTED. THE ATTORNEY GENERAL OR THE DISTRICT
27 ATTORNEY SHALL INVESTIGATE THE MATTER AND DETERMINE WHETHER

1 TO BRING CHARGES OR TO IMPANEL A GRAND JURY IN ACCORDANCE WITH
2 THE PROCEDURES FOR IMPANELING A STATEWIDE GRAND JURY OUTLINED
3 IN SECTION 13-73-101, IF APPLICABLE, OR IN ACCORDANCE WITH THE
4 PROCEDURES FOR IMPANELING A GRAND JURY IN ACCORDANCE WITH
5 SECTION 13-74-101, IF APPLICABLE. THE PURPOSE OF IMPANELING THE
6 GRAND JURY IS TO DETERMINE WHETHER AN INDICTMENT SHOULD BE
7 BROUGHT PURSUANT TO SECTION 18-8-107.5. THE ATTORNEY GENERAL OR
8 THE DISTRICT ATTORNEY MUST MAKE HIS OR HER DECISION IN RESPONSE
9 TO THE AFFIDAVIT NO LATER THAN FORTY-NINE DAYS AFTER THE FILING OF
10 THE AFFIDAVIT AND SHALL NOTIFY THE PERSON FILING THE AFFIDAVIT IN
11 WRITING OF HIS OR HER DECISION.

12 (2) IF THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY
13 DECLINES TO BRING CHARGES OR IMPANEL A GRAND JURY IN RESPONSE TO
14 THE AFFIDAVIT FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
15 PERSON MAY FILE A SECOND AFFIDAVIT DIRECTLY WITH THE COURT
16 OUTLINING THE CRIME, ALLEGING THAT THIS IS A VIOLATION OF SECTION
17 18-8-107.5, AND REQUESTING THAT THE COURT ORDER THE IMPANELING
18 OF A STATEWIDE GRAND JURY OR GRAND JURY FOR THE PURPOSE OF
19 DETERMINING WHETHER OR NOT TO BRING AN INDICTMENT.

20 **SECTION 4. Potential appropriation.** Pursuant to section
21 2-2-703, C.R.S., any bill that results in a net increase in periods of
22 imprisonment in state correctional facilities must include an appropriation
23 of money that is sufficient to cover any increased capital construction and
24 operational costs for the first five fiscal years in which there is a fiscal
25 impact. Because this act may increase periods of imprisonment, this act
26 may require a five-year appropriation.

27 **SECTION 5. Severability - judicial review.** (1) If any provision

1 of this act or the application thereof to any person or circumstance is held
2 invalid, such invalidity does not affect other provisions or applications of
3 the act that can be given effect without the invalid provision or
4 application, and to this end the provisions of this act are declared to be
5 severable.

6 (2) The general assembly further finds and declares that this act
7 shall not be subject to judicial review by the Colorado supreme court or
8 any inferior court.

9 **SECTION 6. Effective date - applicability.** This act takes effect
10 upon passage. Section 2 of this act applies to acts or omissions occurring
11 on or after said date, and section 3 of this act applies to criminal offenses
12 occurring on or after said date.

13 **SECTION 7. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.