

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 17-1023.02 Debbie Haskins x2045

SENATE BILL 17-281

SENATE SPONSORSHIP

Neville T. and Marble, Cooke, Baumgardner, Holbert, Lambert, Lundberg, Scott, Smallwood, Sonnenberg

HOUSE SPONSORSHIP

Williams D. and Covarrubias, Beckman, Humphrey, Leonard, Lewis, Lundeen, Navarro, Neville P., Nordberg, Ransom, Saine, Sias, Van Winkle

Senate Committees
Judiciary

House Committees

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 Citizen Protection Against Sanctuary Policies 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 states that it is the policy of this state to ensure, to the

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.

SENATE
3rd Reading Unamended
April 25, 2017

SENATE
Amended 2nd Reading
April 24, 2017

fullest extent of the law, that the state or a political subdivision (jurisdiction) of the state complies with federal immigration law. In addition, pursuant to a recent presidential executive order, the United States secretary of homeland security has the authority to designate, in his or her discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction that willfully refuses to comply with federal immigration law. A jurisdiction that violates the following requirements is deemed to be out of compliance with the requirements of federal immigration law and is deemed to have established a sanctuary jurisdiction policy if it:

- ! Prohibits, or in any way restricts any jurisdiction, official, or employee from sending to, or receiving from, federal immigration agencies information regarding the citizenship or immigration status, lawful or unlawful, of any individual; or
- ! Prohibits, or in any way restricts, a jurisdiction from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:
 - ! Sending such information to, or requesting such information from, federal immigration agencies;
 - ! Maintaining such information;
 - ! Exchanging such information with any other federal, state, or political subdivision of the state; or
- ! Encourages the physical harboring of an alien in violation of federal law.

A jurisdiction is also deemed to have created a sanctuary jurisdiction policy for purposes of the bill if it is officially notified by the federal department of justice or the federal department of homeland security that it is not in compliance with federal immigration law or if it has been denied federal grant funds based on lack of compliance with federal immigration law.

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 and affirmation to the department of public safety (department) that the jurisdiction is in compliance with federal immigration law and the provisions of the bill. If the department does not receive those written reports and affirmations, the department is required to provide the name of that jurisdiction to the state controller.

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 the compliance and affirmation requirement. The state controller shall withhold funds until the department notifies the state controller that the jurisdiction is in compliance.

The department is required to republish on its website, once the information is available, the data reported by the federal immigration and customs enforcement agency that pertains to Colorado on the apprehension and release of aliens from custody as compiled by that agency and reported weekly pursuant to a federal memorandum issued by the federal department of homeland security.

The bill waives governmental immunity against a jurisdiction and against its public employees for personal injuries caused to crime victims as a result of the jurisdiction creating sanctuary jurisdiction policies in violation of the federal law. Governmental immunity is waived and compensatory damages may be awarded under the "Colorado Governmental Immunity Act" to the crime victim if the person who engaged in the criminal activity:

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

The bill states that nothing in the bill relating to compliance with federal immigration laws and nothing in the "Colorado Governmental Immunity Act" shall be construed to require a jurisdiction or a public employee to violate an applicable court ruling from the United States tenth circuit court of appeals or the United States supreme court regarding the enforcement of any provision of federal immigration 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 or by a federal immigration agency.

The bill includes a severability clause. The bill takes effect upon passage and applies to acts or omissions occurring on or after said date.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act is known as the "Colorado
3 Citizen Protection Against Sanctuary Policies Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add** part 20 to article

1 33.5 of title 24 as follows:

2

PART 20

3

COMPLIANCE WITH FEDERAL IMMIGRATION LAWS

4

AND LIMITATION ON CREATING SANCTUARY POLICIES

5

24-33.5-2001. Legislative declaration. (1) THE GENERAL

6

ASSEMBLY FINDS AND DECLARES THAT IT IS NECESSARY TO ENSURE

7

CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS PART 20

8

THROUGHOUT THE STATE AND THAT, THEREFORE, EXCEPT AS OTHERWISE

9

SPECIFIED IN THIS PART 20, ADDRESSING SANCTUARY POLICIES AS

10

OUTLINED IN THIS PART 20 IS DECLARED TO BE A MATTER OF STATEWIDE

11

CONCERN.

12

(2) THE GENERAL ASSEMBLY FINDS THAT:

13

(a) SANCTUARY POLICIES THAT RESTRICT, OBSTRUCT, OR

14

DISCOURAGE COOPERATION WITH FEDERAL IMMIGRATION AUTHORITIES

15

ARE PROHIBITED BY FEDERAL LAW, FOR EXAMPLE, UNDER 8 U.S.C. SEC.

16

1373 (a), WHICH STATES THAT "A FEDERAL, STATE, OR LOCAL

17

GOVERNMENT ENTITY OR OFFICIAL MAY NOT PROHIBIT, OR IN ANY WAY

18

RESTRICT, ANY GOVERNMENT ENTITY OR OFFICIAL FROM SENDING TO, OR

19

RECEIVING FROM, THE IMMIGRATION AND NATURALIZATION SERVICE

20

INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS,

21

LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL.";

22

(b) THE PRESIDENT OF THE UNITED STATES ON JANUARY 25, 2017,

23

ISSUED AN EXECUTIVE ORDER CONCERNING SANCTUARY JURISDICTIONS,

24

WHICH STATES THAT IT IS THE POLICY OF THE EXECUTIVE BRANCH TO

25

ENSURE, TO THE FULLEST EXTENT OF THE LAW, THAT A STATE, OR A

26

POLITICAL SUBDIVISION OF A STATE, SHALL COMPLY WITH 8 U.S.C. SEC.

27

1373. SECTION (9)(a) OF THE EXECUTIVE ORDER STATES: "IN

1 FURTHERANCE OF THIS POLICY, THE ATTORNEY GENERAL AND THE
2 SECRETARY [OF THE DEPARTMENT OF HOMELAND SECURITY], IN THEIR
3 DISCRETION AND TO THE EXTENT CONSISTENT WITH LAW, SHALL ENSURE
4 THAT JURISDICTIONS THAT WILLFULLY REFUSE TO COMPLY WITH 8 U.S.C.
5 1373 (SANCTUARY JURISDICTIONS) ARE NOT ELIGIBLE TO RECEIVE
6 FEDERAL GRANTS, EXCEPT AS DEEMED NECESSARY FOR LAW
7 ENFORCEMENT PURPOSES BY THE ATTORNEY GENERAL OR THE
8 SECRETARY. THE SECRETARY HAS THE AUTHORITY TO DESIGNATE, IN HIS
9 DISCRETION AND TO THE EXTENT CONSISTENT WITH LAW, A JURISDICTION
10 AS A SANCTUARY JURISDICTION. THE ATTORNEY GENERAL SHALL TAKE
11 APPROPRIATE ENFORCEMENT ACTION AGAINST ANY ENTITY THAT
12 VIOLATES 8 U.S.C. 1373, OR WHICH HAS IN EFFECT A STATUTE, POLICY, OR
13 PRACTICE THAT PREVENTS OR HINDERS THE ENFORCEMENT OF FEDERAL
14 LAW."

15 (c) THE MAJORITY OPINION OF JUSTICE ANTHONY KENNEDY IN THE
16 2012 UNITED STATES SUPREME COURT DECISION *ARIZONA V. UNITED*
17 *STATES*, 567 U.S. ___, 132 S. CT. 2492 (2012), STATES THAT
18 "[C]ONSULTATION BETWEEN FEDERAL AND STATE OFFICIALS IS AN
19 IMPORTANT FEATURE OF THE IMMIGRATION SYSTEM" AND THAT THE U.S.
20 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 (d) THE COLORADO DEPARTMENT OF CORRECTIONS HAS REPORTED
24 THAT IN FISCAL YEAR 2016, THE STATE CORRECTIONS SYSTEM RECEIVED
25 A GRANT FROM THE UNITED STATES DEPARTMENT OF JUSTICE IN THE
26 AMOUNT OF \$2,077,720 IN RECOGNITION OF THE COSTS OF INCARCERATING
27 2,039 CRIMINAL ALIEN INMATES, OR 14.7% OF ALL DEPARTMENT OF

1 CORRECTIONS INMATES. SINCE THE REPORTED AVERAGE COST PER
2 OFFENDER WAS \$37,958 ANNUALLY IN THE STATE CORRECTIONS SYSTEM
3 IN 2016, THE TRUE COST OF INCARCERATION FOR 2,039 CRIMINAL ALIEN
4 INMATES WAS \$77,396,362, WHICH MEANS THAT THE FEDERAL GRANT
5 COVERED ONLY 2.7% OF THE TRUE INCARCERATION COSTS AND LEAVES
6 COLORADO WITH A NET, UNREIMBURSED COST TO COLORADO TAXPAYERS
7 OF \$75,318,642 IN FISCAL YEAR 2016; AND

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

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

25 **24-33.5-2002. Definitions.** AS USED IN THIS PART 20, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

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

1 (2) "JURISDICTION" MEANS THE STATE OR A POLITICAL
2 SUBDIVISION THEREOF ORGANIZED PURSUANT TO LAW, INCLUDING ANY
3 COUNTY; CITY AND COUNTY; CITY; MUNICIPALITY; SCHOOL DISTRICT,
4 SPECIAL DISTRICT, OR ANY OTHER DISTRICT; AGENCY; INSTRUMENTALITY;
5 LAW ENFORCEMENT AGENCY; AND ANY STATE INSTITUTION OF HIGHER
6 EDUCATION.

7 **24-33.5-2003. Compliance with federal immigration law -**
8 **restrictions on jurisdictions regulating official and employee**
9 **communications relating to immigration status - notice to officials**
10 **and employees - reports on compliance - penalty for noncompliance.**

11 **(1) Compliance with federal immigration law on communications**
12 **and cooperation.** (a) CONSISTENT WITH SECTION (9)(a) OF THE
13 PRESIDENT'S EXECUTIVE ORDER ENTITLED "ENHANCING PUBLIC SAFETY
14 IN THE INTERIOR OF THE UNITED STATES", ISSUED ON JANUARY 25, 2017,
15 IT IS THE POLICY OF THIS STATE TO ENSURE, TO THE FULLEST EXTENT OF
16 THE LAW, THAT THE STATE OR A POLITICAL SUBDIVISION OF THE STATE
17 COMPLIES WITH 8 U.S.C. SEC. 1373. IN ADDITION, PURSUANT TO SECTION
18 (9)(a) OF THE EXECUTIVE ORDER, THE UNITED STATES SECRETARY OF
19 HOMELAND SECURITY HAS THE AUTHORITY TO DESIGNATE, IN HIS OR HER
20 DISCRETION AND TO THE EXTENT CONSISTENT WITH LAW, A JURISDICTION
21 AS A SANCTUARY JURISDICTION THAT IS WILLFULLY REFUSING TO COMPLY
22 WITH 8 U.S.C. SEC. 1373. IF A JURISDICTION VIOLATES ANY OF THE
23 REQUIREMENTS SPECIFIED IN SUBSECTION (1)(b), (1)(c), OR (1)(d) OF THIS
24 SECTION, THE JURISDICTION IS DEEMED TO BE OUT OF COMPLIANCE WITH
25 THE REQUIREMENTS OF FEDERAL IMMIGRATION LAW AND IS DEEMED TO
26 HAVE ESTABLISHED A SANCTUARY JURISDICTION POLICY.

27 (b) PURSUANT TO 8 U.S.C. SEC. 1373 (a), NOTWITHSTANDING ANY

1 OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW, A JURISDICTION
2 MAY NOT PROHIBIT, OR IN ANY WAY RESTRICT, ANY JURISDICTION,
3 OFFICIAL, OR EMPLOYEE FROM SENDING TO, OR RECEIVING FROM, FEDERAL
4 IMMIGRATION AGENCIES INFORMATION REGARDING THE CITIZENSHIP OR
5 IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL.

6 (c) PURSUANT TO 8 U.S.C. SEC. 1373 (b), NOTWITHSTANDING ANY
7 OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW, A JURISDICTION
8 MAY NOT PROHIBIT, OR IN ANY WAY RESTRICT, A STATE OR POLITICAL
9 SUBDIVISION OF THIS STATE FROM DOING ANY OF THE FOLLOWING WITH
10 RESPECT TO INFORMATION REGARDING THE IMMIGRATION STATUS, LAWFUL
11 OR UNLAWFUL, OF ANY INDIVIDUAL:

12 (I) SENDING SUCH INFORMATION TO, OR REQUESTING SUCH
13 INFORMATION FROM, FEDERAL IMMIGRATION AGENCIES;

14 (II) MAINTAINING SUCH INFORMATION; OR

15 (III) EXCHANGING SUCH INFORMATION WITH ANY OTHER FEDERAL,
16 STATE, OR POLITICAL SUBDIVISION OF THIS STATE.

17 (d) A JURISDICTION MAY NOT ENCOURAGE THE PHYSICAL
18 HARBORING OF AN ALIEN IN VIOLATION OF 8 U.S.C. SEC. 1324.

19 (2) **Federal finding of sanctuary jurisdiction.** A JURISDICTION
20 IS ALSO DEEMED TO HAVE CREATED A SANCTUARY JURISDICTION POLICY
21 FOR PURPOSES OF THIS SECTION IF IT IS OFFICIALLY NOTIFIED BY THE
22 FEDERAL DEPARTMENT OF JUSTICE OR THE FEDERAL DEPARTMENT OF
23 HOMELAND SECURITY THAT IT IS NOT IN COMPLIANCE WITH FEDERAL
24 IMMIGRATION LAW OR IF IT HAS BEEN DENIED FEDERAL GRANT FUNDS
25 BASED ON LACK OF COMPLIANCE WITH FEDERAL IMMIGRATION LAW.

26 (3) **Federal court orders.** NOTHING IN THIS SECTION SHALL BE
27 CONSTRUED TO REQUIRE A JURISDICTION, AN OFFICIAL, OR AN EMPLOYEE

1 TO VIOLATE AN APPLICABLE COURT RULING FROM THE UNITED STATES
2 TENTH CIRCUIT COURT OF APPEALS OR THE UNITED STATES SUPREME
3 COURT REGARDING THE ENFORCEMENT OF ANY PROVISION OF FEDERAL
4 IMMIGRATION LAW.

5 (4) **Notice to officials, employees, and law enforcement**
6 **officers.** THE GOVERNING BODY OF A JURISDICTION SHALL PROVIDE
7 WRITTEN NOTICE TO EACH ELECTED OFFICIAL, EMPLOYEE, AND LAW
8 ENFORCEMENT OFFICER OF THE JURISDICTION OF HIS OR HER DUTY TO
9 COMPLY WITH 8 U.S.C. SEC. 1373 AND 8 U.S.C. SEC. 1324 AS SPECIFIED IN
10 SUBSECTION (1) OF THIS SECTION.

11 (5) (a) **Compliance reports.** ON OR BEFORE JULY 1, 2018, AND ON
12 OR BEFORE JULY 1 OF EACH YEAR THEREAFTER, THE GOVERNING BODY OF
13 EACH JURISDICTION IN THIS STATE SHALL SUBMIT A WRITTEN REPORT AND
14 AN AFFIRMATION OF COMPLIANCE TO THE DEPARTMENT THAT INDICATES
15 THAT THE JURISDICTION IS IN COMPLIANCE WITH THE REQUIREMENTS OF
16 SUBSECTION (1) OF THIS SECTION AND HAS NOT BEEN NOTIFIED BY THE
17 FEDERAL GOVERNMENT THAT IT IS NOT IN COMPLIANCE WITH FEDERAL
18 IMMIGRATION LAW OR HAS BEEN DENIED FEDERAL GRANT FUNDS AS
19 DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

20 (b) IF THE DEPARTMENT DOES NOT RECEIVE A TIMELY REPORT AND
21 AN AFFIRMATION OF COMPLIANCE FROM A JURISDICTION AS REQUIRED IN
22 SUBSECTION (5)(a) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE
23 THE NAME OF THAT JURISDICTION TO THE STATE CONTROLLER.

24 (6) **Annual report.** ON OR BEFORE SEPTEMBER 1, 2018, AND ON
25 OR BEFORE SEPTEMBER 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT
26 SHALL COMPILE THE COMPLIANCE REPORTS AND AFFIRMATIONS RECEIVED
27 PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE DEPARTMENT SHALL

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

8 (7) **Penalty for noncompliance.** NOTWITHSTANDING ANY OTHER
9 PROVISION OF LAW TO THE CONTRARY, COMMENCING WITH THE 2018-19
10 FISCAL YEAR, AND EACH FISCAL YEAR THEREAFTER, THE STATE
11 CONTROLLER SHALL WITHHOLD THE PAYMENT OF STATE FUNDS TO ANY
12 JURISDICTION THAT THE DEPARTMENT HAS REPORTED TO THE STATE
13 CONTROLLER AS HAVING NOT COMPLIED WITH THIS SECTION UNTIL SUCH
14 TIME AS THE JURISDICTION COMPLIES WITH THIS SECTION AND THE
15 DEPARTMENT NOTIFIES THE STATE CONTROLLER OF SUCH COMPLIANCE.

16 **24-33.5-2004. Department - publication of information on**
17 **alien apprehensions and releases.** THE SECRETARY OF THE FEDERAL
18 DEPARTMENT OF HOMELAND SECURITY ISSUED A MEMORANDUM ENTITLED
19 "ENFORCEMENT OF THE IMMIGRATION LAWS TO SERVE THE NATIONAL
20 INTEREST", DATED FEBRUARY 20, 2017, WHICH STATES IN SECTION H,
21 THAT THE DIRECTOR OF THE U.S. IMMIGRATION AND CUSTOMS
22 ENFORCEMENT AGENCY (ICE) WILL DEVELOP AND PROVIDE A WEEKLY
23 REPORT TO THE PUBLIC, UTILIZING A MEDIUM THAT CAN BE READILY
24 ACCESSED WITHOUT CHARGE, OF NONFEDERAL JURISDICTIONS THAT
25 RELEASE ALIENS FROM THEIR CUSTODY, NOTWITHSTANDING THAT SUCH
26 ALIENS ARE SUBJECT TO A DETAINER OR SIMILAR REQUEST FOR CUSTODY
27 ISSUED BY ICE TO THAT JURISDICTION. SECTION H OF THE MEMORANDUM

1 SPECIFIES THE TYPE OF INFORMATION ON ALIEN APPREHENSIONS AND
2 RELEASES THAT WILL BE CONTAINED IN EACH WEEKLY REPORT. AFTER THE
3 WEEKLY REPORTS ISSUED PURSUANT TO THIS MEMORANDUM ARE
4 AVAILABLE, THE DEPARTMENT SHALL REPUBLISH THE PORTION OF THOSE
5 WEEKLY REPORTS THAT PERTAIN TO COLORADO ON THE DEPARTMENT'S
6 WEBSITE.

7 **SECTION 3.** In Colorado Revised Statutes, 24-10-103, **amend**
8 the introductory portion; and **add** (1.7), (5.8), and (5.9) as follows:

9 **24-10-103. Definitions.** As used in this ~~article~~ ARTICLE 10, unless
10 the context otherwise requires:

11 (1.7) "ILLEGAL ALIEN" MEANS AN INDIVIDUAL WHO IS NOT
12 LAWFULLY PRESENT WITHIN THE UNITED STATES, AS DETERMINED BY
13 FEDERAL IMMIGRATION LAW OR BY A FEDERAL IMMIGRATION AGENCY.

14 (5.8) "RESIDENT", FOR PURPOSES OF DETERMINING WHETHER AN
15 ILLEGAL ALIEN IS A RESIDENT OF A PUBLIC ENTITY THAT HAS ADOPTED A
16 SANCTUARY POLICY, MEANS:

17 (a) (I) THAT THE PRINCIPAL OR PRIMARY HOME OR PLACE OF
18 ABODE OF THE PERSON IS WITHIN THE BOUNDARIES OF THE PUBLIC ENTITY
19 THAT HAS ESTABLISHED A SANCTUARY POLICY. A PRINCIPAL OR PRIMARY
20 HOME OR PLACE OF ABODE IS THAT HOME OR PLACE IN WHICH A PERSON'S
21 HABITATION IS FIXED AND TO WHICH THAT PERSON, WHENEVER ABSENT,
22 HAS THE PRESENT INTENTION OF RETURNING AFTER A DEPARTURE OR
23 ABSENCE, REGARDLESS OF THE DURATION OF THE ABSENCE. A HOME OR
24 PLACE OF ABODE IS A PERMANENT BUILDING OR PART OF A BUILDING AND
25 MAY INCLUDE A HOUSE, CONDOMINIUM, APARTMENT, MOBILE HOME, OR
26 A ROOM IN ONE OF THOSE STRUCTURES. A VACANT LOT OR BUSINESS
27 ADDRESS MAY ALSO BE CONSIDERED A HOME OR PLACE OF ABODE.

1 (II) IN DETERMINING WHAT IS THE PRINCIPAL OR PRIMARY PLACE
2 OF ABODE OF AN ILLEGAL ALIEN, THE FOLLOWING CIRCUMSTANCES
3 RELATING TO THE ILLEGAL ALIEN MUST BE TAKEN INTO ACCOUNT:
4 BUSINESS PURSUITS; EMPLOYMENT; INCOME SOURCES; AGE; MARITAL
5 STATUS; RESIDENCE OF PARENTS, SPOUSE, OR PARTNER, AND CHILDREN, IF
6 ANY; LEASEHOLDS; LOCATION OF PERSONAL AND REAL PROPERTY;
7 EXISTENCE OF ANY OTHER RESIDENCE AND THE AMOUNT OF TIME SPENT AT
8 EACH RESIDENCE; AND MOTOR VEHICLE REGISTRATION; OR

9 (b) THAT, IF THE PERSON IS HOMELESS, THE MAILING ADDRESS OF
10 THE PERSON IS WITHIN THE BOUNDARIES OF THE PUBLIC ENTITY THAT HAS
11 ESTABLISHED A SANCTUARY JURISDICTION. THE MAILING ADDRESS OF A
12 HOMELESS PERSON MAY INCLUDE THE MAILING ADDRESS OF A SHELTER, A
13 HOMELESS SERVICE PROVIDER, OR A PRIVATE RESIDENCE; OR

14 (c) THAT THE PERSON STAYS, LIVES, WORKS, INHABITS, OR
15 ENGAGES IN LEISURE ACTIVITIES WITHIN THE BOUNDARIES OF THE PUBLIC
16 ENTITY THAT HAS ESTABLISHED A SANCTUARY POLICY BECAUSE OF ANY
17 PERCEIVED SANCTUARY POLICY BENEFIT HE OR SHE MAY ENJOY IN ORDER
18 TO CONTINUE VIOLATING FEDERAL IMMIGRATION LAW.

19 (5.9) "SANCTUARY JURISDICTION POLICY" MEANS A PUBLIC ENTITY
20 HAS ADOPTED A LAW, ORDINANCE, POLICY, OR PRACTICE:

21 (a) THAT IS IN VIOLATION OF 8 U.S.C. SEC. 1373 BY PROHIBITING
22 OR IN ANY WAY RESTRICTING A PUBLIC ENTITY OR A PUBLIC EMPLOYEE
23 FROM SENDING TO, OR RECEIVING FROM, A FEDERAL IMMIGRATION AGENCY
24 INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS,
25 LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL; OR

26 (b) THAT IS IN VIOLATION OF 8 U.S.C. SEC. 1373 BY PROHIBITING
27 OR RESTRICTING IN ANY WAY A PUBLIC ENTITY OR A PUBLIC EMPLOYEE

1 FROM DOING ANY OF THE FOLLOWING WITH RESPECT TO INFORMATION
2 REGARDING THE IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF ANY
3 INDIVIDUAL:

4 (I) SENDING SUCH INFORMATION TO, OR REQUESTING SUCH
5 INFORMATION FROM, A FEDERAL IMMIGRATION AGENCY;

6 (II) MAINTAINING SUCH INFORMATION; OR

7 (III) EXCHANGING SUCH INFORMATION WITH ANY OTHER FEDERAL,
8 STATE, OR POLITICAL SUBDIVISION OF THIS STATE; OR

9 (c) THAT ENCOURAGES THE PHYSICAL HARBORING OF AN ILLEGAL
10 ALIEN IN VIOLATION OF 8 U.S.C. SEC. 1324.

11 **SECTION 4.** In Colorado Revised Statutes, 24-10-106, **add** (1)(j)
12 as follows:

13 **24-10-106. Immunity and partial waiver.** (1) A public entity
14 shall be immune from liability in all claims for injury which lie in tort or
15 could lie in tort regardless of whether that may be the type of action or the
16 form of relief chosen by the claimant except as provided otherwise in this
17 section. Sovereign immunity is waived by a public entity in an action for
18 injuries resulting from:

19 (j) (I) CRIMINAL ACTIVITY COMMITTED BY AN ILLEGAL ALIEN WHO
20 ESTABLISHED RESIDENCY IN A PUBLIC ENTITY THAT ADOPTED A
21 SANCTUARY JURISDICTION POLICY IN WHICH THE FOLLOWING IS
22 DETERMINED:

23 (A) THE PUBLIC ENTITY ADOPTED A SANCTUARY JURISDICTION
24 POLICY;

25 (B) 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 (C) THE PERSON WHO ENGAGED IN THE CRIMINAL ACTIVITY HAD
2 ESTABLISHED RESIDENCY IN THE PUBLIC ENTITY;

3 (D) THE PERSON IS CONVICTED OF THE CRIME THAT CAUSED THE
4 PLAINTIFF'S INJURY; AND

5 (E) THE CRIMINAL ACTIVITY IS A PROXIMATE CAUSE OF THE
6 PLAINTIFF'S INJURY.

7 (II) NOTHING IN THIS SUBSECTION (1)(j) SHALL BE CONSTRUED TO
8 REQUIRE A PUBLIC ENTITY OR A PUBLIC EMPLOYEE TO VIOLATE AN
9 APPLICABLE COURT RULING FROM THE UNITED STATES TENTH CIRCUIT
10 COURT OF APPEALS OR THE UNITED STATES SUPREME COURT REGARDING
11 THE ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

12 **SECTION 5. Severability.** If any provision of this act or the
13 application thereof to any person or circumstance is held invalid, such
14 invalidity does not affect other provisions or applications of the act that
15 can be given effect without the invalid provision or application, and to
16 this end the provisions of this act are declared to be severable.

17 **SECTION 6. Effective date - applicability.** This act takes effect
18 January 1, 2018, and applies to acts or omissions occurring on or after
19 said date.

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