

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1303

Introduced by

Representatives Kasper, Headland, Hendrix, Koppelman, Louser, Motschenbacher, S. Olson
Senator Castaneda

1 A BILL ~~for an Act to create and enact a new chapter to title 54 of the North Dakota Century-~~
2 ~~Code, relating to the enforcement of federal immigration law and the prohibition on sanctuary~~
3 ~~cities; to repeal section 44-08-25 of the North Dakota Century Code, relating to the prohibition~~
4 ~~on sanctuary cities; and to provide a penalty.~~ for an Act to amend and reenact section 44-08-25
5 of the North Dakota Century Code, relating to the prohibition of sanctuary city policies; and to
6 provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 ~~— **SECTION 1.** A new chapter to title 54 of the North Dakota Century Code is created and~~
9 ~~enacted as follows:~~

10 ~~— **Definitions.**~~

11 ~~— As used in this chapter:~~

12 ~~— 1. "Alien" means an individual who is not a United States citizen.~~

13 ~~— 2. "Illegal alien" means an alien who is illegally present in the United States.~~

14 ~~— 3. "Sanctuary policy" means an order, ordinance, rule, law, law enforcement policy, or~~
15 ~~guideline, whether formally or informally adopted, that:~~

16 ~~— a. Limits or prohibits an official or employee of a state agency, department, or office~~
17 ~~or a political subdivision from communicating or cooperating with federal~~
18 ~~agencies or officials to verify or report the immigration status of an illegal alien.~~

19 ~~— b. Grants illegal aliens the right of lawful presence or status in violation of federal~~
20 ~~law.~~

- 1 ~~c. Violates a provision of chapter 1373 of United States Code title 8 [8 U.S.C. 1373].~~
- 2 ~~d. Restricts or imposes a condition upon the cooperation or compliance of a state-~~
- 3 ~~agency, department, or office or political subdivision with United States~~
- 4 ~~immigration and customs enforcement to maintain custody of an illegal alien or to~~
- 5 ~~transfer an illegal alien to the custody of United States immigration and customs~~
- 6 ~~enforcement.~~
- 7 ~~e. Prevents a law enforcement officer of a political subdivision from asking an~~
- 8 ~~individual in custody the individual's citizenship or immigration status.~~
- 9 ~~**Sanctuary policy prohibition – State agencies, departments, and offices.**~~
- 10 ~~1. A state agency, department, or office may not enact or adopt a sanctuary policy.~~
- 11 ~~2. The state treasurer may not disburse public moneys to support the implementation or~~
- 12 ~~enforcement of a sanctuary policy of a state agency, department, or office.~~
- 13 ~~**Attorney general – Duties – Notice – Sanctions.**~~
- 14 ~~1. The attorney general, at the discretion of the attorney general, or upon receiving a~~
- 15 ~~complaint from a resident of the state regarding a violation of this chapter, shall issue~~
- 16 ~~an opinion and notice to:~~
- 17 ~~a. The political subdivision, the state treasurer, and the public finance authority, if a~~
- 18 ~~political subdivision is in violation of this chapter.~~
- 19 ~~b. The head of the state agency, department, or office, budget section of the~~
- 20 ~~legislative assembly, the governor, the president of the senate, the speaker of the~~
- 21 ~~house of representatives, and each member of the standing appropriations~~
- 22 ~~committees, or if the legislative assembly is not in session, the most recent~~
- 23 ~~standing appropriations committees, if a state department, agency, or office is in~~
- 24 ~~violation of this chapter.~~
- 25 ~~2. If the attorney general issues an opinion under this section, the opinion must include~~
- 26 ~~the violations of this chapter and findings of fact describing with specificity the~~
- 27 ~~sanctuary policy.~~
- 28 ~~3. If a political subdivision provides the attorney general with sufficient evidence to~~
- 29 ~~demonstrate a sanctuary policy is no longer in effect, the attorney general shall issue a~~
- 30 ~~second opinion declaring the political subdivision has reformed its policies and no~~

~~longer has a sanctuary policy, and provide the political subdivision, the state treasurer,
and the public finance authority with the opinion.~~

~~4. If the conditions under subdivision b of subsection 1 occur, the budget section of the
legislative assembly shall hold a hearing as soon as practicable to determine whether
appropriations to the political subdivision, state agency, department, or office should
be restricted or conditioned on compliance with this section.~~

~~**Sanctuary policy prohibition - Political subdivisions - Prohibitions on approval of
bonds.**~~

~~1. A political subdivision may not enact or adopt a sanctuary policy.~~

~~2. If a political subdivision has enacted a sanctuary policy in violation of this chapter, the
political subdivision is subject to subsection 3 of this section.~~

~~3. Notwithstanding any other provision of law, bonds, notes, or other evidence of
indebtedness of a political subdivision that the public finance authority is required to
approve may not be approved by the public finance authority if notice of a violation of
this chapter has been provided by the attorney general to the political subdivision, the
public finance authority, and the state treasurer, and the notice of violation remains on
file with the public finance authority.~~

~~4. The notice of violation must remain on file with the public finance authority unless the
attorney general issues a second opinion declaring the political subdivision has
reformed its policies and no longer has a sanctuary policy.~~

~~**SECTION 2. REPEAL.** Section 44-08-25 of the North Dakota Century Code is repealed.~~

SECTION 1. AMENDMENT. Section 44-08-25 of the North Dakota Century Code is
amended and reenacted as follows:

44-08-25. Prohibition - Sanctuary - Immigration - Void.

1. Notwithstanding any other provision of law, the state, a political subdivision, or
institution of higher education under the supervision of the state board of higher
education or any agent or employee of the state, a political subdivision, or the
institution of higher education may not adopt or implement, whether formally or
informally, a sanctuary policy, including a policy, order, or ordinance that:

a. Limits or prohibits an individual from communicating or cooperating with federal
agencies or officials to verify or report the immigration status of an individual; ~~or~~

- 1 b. Grants a noncitizen unlawfully present in the United States the right to lawful
2 presence or status within the state, a political subdivision, or the institution of
3 higher education;
- 4 c. Violates a provision of chapter 1373 of United States Code title 8 [8 U.S.C. 1373];
5 d. Restricts or imposes a condition upon the cooperation or compliance of a state
6 agency, department, or office or political subdivision with United States
7 immigration and customs enforcement to maintain custody of or to transfer an
8 illegal alien to the custody of United States immigration and customs
9 enforcement; or
- 10 e. Prevents a law enforcement officer of a political subdivision from asking an
11 individual in custody the individual's citizenship or immigration status.
- 12 2. The attorney general, upon receiving a complaint from an individual regarding a
13 violation of this section, may investigate as necessary. If the attorney general finds a
14 political subdivision is in violation of this section, the attorney general shall issue an
15 opinion to the political subdivision, including findings of fact describing with specificity
16 the sanctuary policy.
- 17 3. Within thirty days of receiving an opinion under subsection 2, a political subdivision
18 may appeal the opinion to the district court or provide the attorney general with
19 evidence to demonstrate a sanctuary policy is no longer in effect.
- 20 4. If a political subdivision provides the attorney general with sufficient evidence to
21 demonstrate a sanctuary policy is no longer in effect, the attorney general shall:
- 22 a. Issue a second opinion to the political subdivision declaring the political
23 subdivision no longer has a sanctuary policy; and
- 24 b. If applicable, direct the state treasurer to cease withholding the political
25 subdivision's funding under subsection 5.
- 26 5. Thirty days after the political subdivision receives an opinion under subsection 2, the
27 attorney general shall direct the state treasurer to withhold the political subdivision's
28 allocation each quarter from the state aid distribution fund under section 57-39.2-26.1
29 and deposit the withheld funds into the general fund.
- 30 6. Any policy, order, or ordinance adopted in violation of this section is void.