

Testimony in Opposition to HB 1303

Chairwoman Roers and members of the State and Local Government committee

My name is Anna Marie Stenson. I am a licensed attorney in North Dakota. I am in opposition to the bill in front of you.

With this bill, I question what current activity in the state is the bill trying to prevent. Has there been research as to whether there are any “sanctuary” policies. If there are, why do those policies exist?

My practice focuses primarily on immigration law. Immigration enforcement is primarily under the jurisdiction of federal law. Immigration law and immigration enforcement can be complex. The U.S. Congress and federal courts, in recent history, have consistently held that the U.S. Constitution grants the federal government authority over immigration matters.

I do not believe you need to be an expert in immigration law to appreciate the potential harmful effects of this bill for the state.

North Dakota is a vibrant state with a growing economy. But it has a work force shortage. North Dakota has done a great deal to recruit individuals to North Dakota, including through the establishment of the Office of Legal Immigration. The state is taking other positive actions to recruit workers to this state. This bill sends a message that counters that positive message. Is this the mixed message that the state wants to portray?

This bill would likely be a deterrent to individuals to move to the state. In a state with a severe workforce shortage, even turning away one authorized worker because of a concern for state penalties can have an economic impact for the state and the individual employer.

Oftentimes when I’m asked to speak about immigration enforcement and try to present information on what is considered sanctuary policies, I talk about what the state, counties, and municipalities need. Sanctuary policies often relate to local law enforcement assistance with federal immigration enforcement efforts. In order for local law enforcement to keep a community safe, they need community trust. It may be about not having the capacity to enforce immigration laws. It may be about protecting victims and witnesses when reporting crimes. We are all safer when victims come forward without the fear of immigration consequences. It is not helpful to have legal

immigrant communities fearing the police or accessing state services for fear of being targeted.

Sanctuary policies do not violate or conflict with existing federal law because they do not impede or interfere with federal immigration enforcement. They do not prevent federal immigration agencies from deporting people. They do not allow state or local officials to conceal or shield people from detection by federal immigration officials. Federal immigration enforcement does happen in sanctuary jurisdictions.

Many sanctuary jurisdictions have a policy of not asking about immigration status during law enforcement encounters. No federal law requires them to do so. Another common sanctuary policy is to refuse to honor all or some requests by DHS for a law enforcement agency to continue to hold somebody past the point they would otherwise be lawfully released so that DHS can take custody of the person. Sanctuary policies do not provide for interference in federal immigration efforts, which would likely be illegal.

Section 1. 1. E- Prevents a law enforcement officer of a political subdivision from asking an individual in custody the individual's citizenship or immigration status. This could open up local law enforcement officers to civil liability for racial profiling if they are not consistently asking for proof of citizenship status or immigration status from everyone they encounter.

This bill also does not protect an unauthorized employee who is working for an employer for being exploited because of the employee's status. That employee is not going to come forward to report, if they feel they are going to be turned over to immigration first. This bill also does nothing to protect the labor trafficking that is currently going on in the state. This bill does not protect domestic violence victims from their abusers.

Perpetrators of such illegal activity routinely manipulate and isolate victims to limit their access to information about their legal rights. They routinely control victims by warning them, that local law enforcement will not protect them. That they will be deported if they seek help from the police. It is this type of law that potentially protects perpetrators of crime.

At the federal level, there are laws such as the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act which encourage individuals to contact their local law enforcement for protection and fear of deportation. These types of laws encourage survivors to help police get dangerous criminals off the streets. This results in safer communities for all of us.

I'm not advocating for sanctuary policies. I want to bring attention to the harm that a law like this would bring to vulnerable populations in the state. I do receive calls from individuals who report they have been victims of labor and sex trafficking. I receive calls from victims of domestic violence. I receive calls from victims of violent crimes. I receive calls from victims who have been defrauded out of money by local businesses who are providing legal advice without a license. In each and every case, I encourage them to file police reports. In all most all instances, they do not feel comfortable because they believe they will be targeted for immigration enforcement rather than being seen as the victim of a crime. In some instances, the victim has no immigration issues, so they should not fear coming forward. It is a matter of distrust. In some instances, the victim is undocumented. But the reason why they are undocumented is in the hands of their abuser. Their spouse or their employer could file immigration paperwork to have them be legal, but the abuse does not.

Consistent with these laws, policies that maintain a firm distinction between federal and local immigration enforcement send a clear message to criminals that they cannot exploit victims' fears of deportation with impunity. Conversely, erasing the distinction between federal and local immigration enforcement erodes immigrant communities' trust of police leading to decreased reporting of domestic violence and other crime. When this happens, police become the unwitting accomplices of abusers and traffickers in perpetuating a climate of fear for the most vulnerable among us

Local officials are best positioned to determine the needs of their communities and their allocation of limited resources. I would have to believe that sometimes policies are developed to leverage limited resources, staff, funding and to prioritize certain law enforcement activities over others. Making sure limited resources are used where they are needed most promotes community safety.

If there is a requirement to have the state work with the federal government or face withholding of state money, there may be unintended consequences. It may place significant burdens on state and local agencies, diverting their resources away from high-priority targets, such as violent crime, drugs and other local policing needs. The Department of Homeland Security continues to enforce federal immigration laws. Pressure on state and local municipalities to try to enforce immigration laws at a local level potentially diverts critical state and local law enforcement resources from the most serious threats to public safety and undermines the vital trust between local jurisdictions and the communities they serve.

Law enforcement officers rely on victims and witnesses for critical, firsthand information to help solve crimes that afflict all members of our communities. We are all less safe when immigrants are too afraid to come forward or are swiftly deported and unable to provide eyewitness testimony. While measures to increase local enforcement of immigration laws may aim to target criminals, all immigrants including survivors and even those with lawful status succumb to intimidation and threats of deportation if they come forward. This has been well documented,

Victims may encounter police in a variety of contexts including car-seat safety checks and community outreach or school education programs, and they should not fear participating in such programs. Nor should victims fleeing abusers be afraid to drive, access support networks at places of worship, attend court hearings, or even seek medical care for themselves or their children.

In 2023, the federal Department of Labor created a tool to enforce labor laws and regulations. That program provides temporary protection to witnesses or potential witnesses in labor or civil rights investigations. This program encourages immigrant workers to file complaints against abusive employers without fear of immigration retaliation. This bill would erode that trust that has been built up in the state to report employers

All while failing to address the underlying problem, the need for comprehensive immigration reform at the federal level.

I could probably give the committee examples of informal or formal practices that are currently happening in North Dakota that could be considered in violations of this bill.

I do not believe the bill is well thought out on not only how it would be applied and enforced but perhaps some of the unintended consequences. Thank you for the opportunity to speak in opposition to HB 1291.

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