

CHAPTER 177

GOVERNMENT - LOCAL

SENATE BILL 06-090

BY SENATOR(S) Wiens, Johnson, Brophy, Dyer, Evans, Grossman, Hagedorn, Jones, Kester, Lamborn, May R., Mitchell, Spence, Taylor, Teck, Tochtrop, Traylor, and Boyd;
also REPRESENTATIVE(S) Harvey, Balmer, Berens, Clapp, Cloer, Crane, Decker, Hall, Hefley, Hoppe, Kerr J., King, Knoedler, Liston, Lundberg, Massey, May M., Paccione, Penry, Rose, Schultheis, Stafford, Stengel, Todd, White, and Witwer.

AN ACT

CONCERNING LOCAL GOVERNMENT COOPERATION WITH FEDERAL OFFICIALS REGARDING THE IMMIGRATION STATUS OF PERSONS IN THIS STATE.

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

SECTION 1. Title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 29**Immigration Status - Cooperation With Federal Officials**

29-29-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) SANCTUARY POLICIES ARE LOCAL GOVERNMENT ORDINANCES OR POLICIES THAT PROHIBIT LOCAL OFFICIALS, INCLUDING PEACE OFFICERS, FROM COMMUNICATING OR COOPERATING WITH FEDERAL OFFICIALS WITH REGARD TO THE IMMIGRATION STATUS OF ANY PERSON WITHIN THE STATE;

(b) THE MATTERS CONTAINED IN THIS ARTICLE HAVE IMPORTANT STATEWIDE RAMIFICATIONS FOR COMPLIANCE WITH AND ENFORCEMENT OF FEDERAL IMMIGRATION LAWS;

(c) SANCTUARY POLICIES ALLOW ILLEGAL IMMIGRANTS TO RESIDE WITHIN COLORADO AND TO UNDERMINE FEDERAL IMMIGRATION LAW.

(2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT THE MATTERS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ADDRESSED IN THIS ARTICLE ARE MATTERS OF STATEWIDE CONCERN.

29-29-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "LOCAL GOVERNMENT" MEANS A TOWN, CITY, CITY AND COUNTY, OR COUNTY.

29-29-103. Cooperation with federal officials regarding immigration status.

(1) NO LOCAL GOVERNMENT, WHETHER ACTING THROUGH ITS GOVERNING BODY OR BY AN INITIATIVE, REFERENDUM, OR ANY OTHER PROCESS, SHALL ENACT ANY ORDINANCE OR POLICY THAT LIMITS OR PROHIBITS A PEACE OFFICER, LOCAL OFFICIAL, OR LOCAL GOVERNMENT EMPLOYEE FROM COMMUNICATING OR COOPERATING WITH FEDERAL OFFICIALS WITH REGARD TO THE IMMIGRATION STATUS OF ANY PERSON WITHIN THIS STATE.

(2) (a) (I) A PEACE OFFICER WHO HAS PROBABLE CAUSE THAT AN ARRESTEE FOR A CRIMINAL OFFENSE IS NOT LEGALLY PRESENT IN THE UNITED STATES SHALL REPORT SUCH ARRESTEE TO THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE IF THE ARRESTEE IS NOT HELD AT A DETENTION FACILITY. IF THE ARRESTEE IS HELD AT A DETENTION FACILITY AND THE COUNTY SHERIFF REASONABLY BELIEVES THAT THE ARRESTEE IS NOT LEGALLY PRESENT IN THE UNITED STATES, THE SHERIFF SHALL REPORT SUCH ARRESTEE TO THE FEDERAL IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.

(II) THIS SUBSECTION (2) SHALL NOT APPLY TO ARRESTEES WHO ARE ARRESTED FOR A SUSPECTED ACT OF DOMESTIC VIOLENCE AS DEFINED BY SECTION 18-6-800.3, C.R.S., UNTIL SUCH TIME AS THE ARRESTEE IS CONVICTED OF A DOMESTIC VIOLENCE OFFENSE.

(b) THE GOVERNING BODY OF EACH LOCAL GOVERNMENT SHALL PROVIDE NOTICE IN WRITING TO PEACE OFFICERS OF THE DUTY TO COOPERATE WITH STATE AND FEDERAL OFFICIALS WITH REGARDS TO ENFORCEMENT OF STATE AND FEDERAL LAWS REGARDING IMMIGRATION AND COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (2). EACH GOVERNING BODY SHALL PROVIDE WRITTEN CONFIRMATION TO THE GENERAL ASSEMBLY THAT IT HAS PROVIDED SUCH NOTICE AND SHALL ANNUALLY, ON OR BEFORE MARCH 1 OF EACH YEAR, REPORT TO THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY THE NUMBER OF REPORTS MADE TO THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE PURSUANT TO THIS ARTICLE.

(c) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE STATE ATTORNEY GENERAL AND ALL APPROPRIATE STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD VIGOROUSLY PURSUE ALL FEDERAL MONEYS TO WHICH THE STATE MAY BE ENTITLED FOR THE REIMBURSEMENT OF MONEYS SPENT TO ENFORCE FEDERAL IMMIGRATION LAWS.

(3) A LOCAL GOVERNMENT THAT VIOLATES SUBSECTION (1) OF THIS SECTION OR PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION SHALL NOT BE ELIGIBLE TO RECEIVE LOCAL GOVERNMENT FINANCIAL ASSISTANCE THROUGH GRANTS ADMINISTERED BY THE DEPARTMENT OF LOCAL AFFAIRS UNTIL SUCH TIME AS THE ORDINANCE OR POLICY IS NO LONGER IN EFFECT.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 1, 2006