SENATE BILL 17-281

CONCERNING HOLDING COLORADO GOVERNMENT ACCOUNTABLE FOR
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.
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:

1. 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
2. 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:
   1. Sending such information to, or requesting such information from, federal immigration agencies;
   2. Maintaining such information;
   3. Exchanging such information with any other federal, state, or political subdivision of the state; or
   4. 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.

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

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

SECTION 2. In Colorado Revised Statutes, add part 20 to article
33.5 of title 24 as follows:

PART 20

COMPLIANCE WITH FEDERAL IMMIGRATION LAWS
AND LIMITATION ON CREATING SANCTUARY POLICIES

24-33.5-2001. Legislative declaration. (1) The general assembly finds and declares that it is necessary to ensure consistency and fairness in the application of this part throughout the state and that, therefore, except as otherwise specified in this part, addressing sanctuary policies as outlined in this part 20 is declared to be a matter of statewide concern.

(2) The general assembly finds that:

(a) Sanctuary policies that restrict, obstruct, or discourage cooperation with federal immigration authorities are prohibited by federal law, for example, under 8 U.S.C. sec. 1373 (a), which states that "A Federal, State, or Local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual."

(b) The President of the United States on January 25, 2017, issued an executive order concerning sanctuary jurisdictions, which states that it is the policy of the executive branch to ensure, to the fullest extent of the law, that a state, or a political subdivision of a state, shall comply with 8 U.S.C. sec. 1373. Section (9)(a) of the executive order states: "In
FURTHERANCE OF THIS POLICY, THE ATTORNEY GENERAL AND THE
SECRETARY [OF THE DEPARTMENT OF HOMELAND SECURITY], IN THEIR
DISCRETION AND TO THE EXTENT CONSISTENT WITH LAW, SHALL ENSURE
THAT JURISDICTIONS THAT WILLFULLY REFUSE TO COMPLY WITH 8 U.S.C.
1373 (SANCTUARY JURISDICTIONS) ARE NOT ELIGIBLE TO RECEIVE
FEDERAL GRANTS, EXCEPT AS DEEMED NECESSARY FOR LAW
ENFORCEMENT PURPOSES BY THE ATTORNEY GENERAL OR THE
SECRETARY. THE SECRETARY HAS THE AUTHORITY TO DESIGNATE, IN HIS
DISCRETION AND TO THE EXTENT CONSISTENT WITH LAW, A JURISDICTION
AS A SANCTUARY JURISDICTION. THE ATTORNEY GENERAL SHALL TAKE
APPROPRIATE ENFORCEMENT ACTION AGAINST ANY ENTITY THAT
VIOLATES 8 U.S.C. 1373, OR WHICH HAS IN EFFECT A STATUTE, POLICY, OR
PRACTICE THAT PREVENTS OR HINDERS THE ENFORCEMENT OF FEDERAL
LAW.

(c) The majority opinion of Justice Anthony Kennedy in the
2012 United States Supreme Court decision Arizona v. United
States, 567 U.S. __, 132 S. Ct. 2492 (2012), states that
"[C]onsultation between Federal and state officials is an
important feature of the immigration system" and that the U.S.
Congress "has encouraged the sharing of information about
possible immigration violations", citing to 8 U.S.C. Sec. 1357
(g)(10)(A);

(d) The Colorado Department of Corrections has reported
that in fiscal year 2016, the state corrections system received
a grant from the United States Department of Justice in the
amount of $2,077,720 in recognition of the costs of incarcerating
2,039 criminal alien inmates, or 14.7% of all department of
CORRECTIONS INMATES. SINCE THE REPORTED AVERAGE COST PER
OFFENDER WAS $37,958 ANNUALLY IN THE STATE CORRECTIONS SYSTEM
IN 2016, THE TRUE COST OF INCARCERATION FOR 2,039 CRIMINAL ALIEN
INMATES WAS $77,396,362, WHICH MEANS THAT THE FEDERAL GRANT
COVERED ONLY 2.7% OF THE TRUE INCARCERATION COSTS AND LEAVES
COLORADO WITH A NET, UNREIMBURSED COST TO COLORADO TAXPAYERS
OF $75,318,642 IN FISCAL YEAR 2016; AND

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

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

24-33.5-2002. Definitions. As used in this part 20, unless the
context otherwise requires:

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

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

(1) Compliance with federal immigration law on communications and cooperation. (a) Consistent with section (9)(a) of the President's Executive Order entitled "Enhancing Public Safety in the Interior of the United States", issued on January 25, 2017, it is the policy of this state to ensure, to the fullest extent of the law, that the state or a political subdivision of the state complies with 8 U.S.C. sec. 1373. In addition, pursuant to section (9)(a) of the 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 is willfully refusing to comply with 8 U.S.C. sec. 1373. If a jurisdiction violates any of the requirements specified in subsection (1)(b), (1)(c), or (1)(d) of this section, the jurisdiction is deemed to be out of compliance with the requirements of federal immigration law and is deemed to have established a sanctuary jurisdiction policy.

(b) Pursuant to 8 U.S.C. sec. 1373 (a), notwithstanding any
OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW, A JURISDICTION
MAY NOT PROHIBIT, OR IN ANY WAY RESTRICT, 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.

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

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

(II) MAINTAINING SUCH INFORMATION; OR

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

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

(2) **Federal finding of sanctuary jurisdiction.** A JURISDICTION
IS ALSO DEEMED TO HAVE CREATED A SANCTUARY JURISDICTION POLICY
FOR PURPOSES OF THIS SECTION 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.

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

(4) Notice to officials, employees, and law enforcement officers. The governing body of a jurisdiction shall provide written notice to each elected official, employee, and law enforcement officer of the jurisdiction of his or her duty to comply with 8 U.S.C. sec. 1373 and 8 U.S.C. sec. 1324 as specified in subsection (1) of this section.

(5)(a) Compliance reports. On or before July 1, 2018, and on or before July 1 of each year thereafter, the governing body of each jurisdiction in this state shall submit a written report and an affirmation of compliance to the department that indicates that the jurisdiction is in compliance with the requirements of subsection (1) of this section and has not been notified by the federal government that it is not in compliance with federal immigration law or has been denied federal grant funds as described in subsection (2) of this section.

(b) If the department does not receive a timely report and an affirmation of compliance from a jurisdiction as required in subsection (5)(a) of this section, the department shall provide the name of that jurisdiction to the state controller.

(6) Annual report. On or before September 1, 2018, and on or before September 1 of each year thereafter, the department shall compile the compliance reports and affirmations received pursuant to subsection (5) of this section. The department shall
SUBMIT AN ANNUAL REPORT BASED ON THIS INFORMATION TO THE GENERAL ASSEMBLY AND TO THE STATE CONTROLLER, INCLUDING A LIST OF THOSE JURISDICTIONS THAT DID NOT SUBMIT A COMPLIANCE REPORT OR AN AFFIRMATION OF COMPLIANCE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT TO THE GENERAL ASSEMBLY REQUIRED IN THIS SECTION CONTINUES INDEFINITELY.

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

**24-33.5-2004. Department - publication of information on alien apprehensions and releases.** THE SECRETARY OF THE FEDERAL DEPARTMENT OF HOMELAND SECURITY ISSUED A MEMORANDUM ENTITLED "ENFORCEMENT OF THE IMMIGRATION LAWS TO SERVE THE NATIONAL INTEREST", DATED FEBRUARY 20, 2017, WHICH STATES IN SECTION H, THAT THE DIRECTOR OF THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY (ICE) WILL DEVELOP AND PROVIDE A WEEKLY REPORT TO THE PUBLIC, UTILIZING A MEDIUM THAT CAN BE READILY ACCESSED WITHOUT CHARGE, OF NONFEDERAL JURISDICTIONS THAT RELEASE ALIENS FROM THEIR CUSTODY, NOTWITHSTANDING THAT SUCH ALIENS ARE SUBJECT TO A DETAINER OR SIMILAR REQUEST FOR CUSTODY ISSUED BY ICE TO THAT JURISDICTION. SECTION H OF THE MEMORANDUM
SPECIFIES THE TYPE OF INFORMATION ON ALIEN APPREHENSIONS AND
RELEASES THAT WILL BE CONTAINED IN EACH WEEKLY REPORT. AFTER THE
WEEKLY REPORTS ISSUED PURSUANT TO THIS MEMORANDUM ARE
AVAILABLE, THE DEPARTMENT SHALL REPUBLISH THE PORTION OF THOSE
WEEKLY REPORTS THAT PERTAIN TO COLORADO ON THE DEPARTMENT'S
WEBSITE.

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

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

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

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

(a) (I) THAT THE PRINCIPAL OR PRIMARY HOME OR PLACE OF
ABODE OF THE PERSON IS WITHIN THE BOUNDARIES OF THE PUBLIC ENTITY
THAT HAS ESTABLISHED A SANCTUARY POLICY. A PRINCIPAL OR PRIMARY
HOME OR PLACE OF ABODE IS THAT HOME OR PLACE IN WHICH A PERSON'S
HABITATION IS FIXED AND TO WHICH THAT PERSON, WHENEVER ABSENT,
HAS THE PRESENT INTENTION OF RETURNING AFTER A DEPARTURE OR
ABSENCE, REGARDLESS OF THE DURATION OF THE ABSENCE. A HOME OR
PLACE OF ABODE IS A PERMANENT BUILDING OR PART OF A BUILDING AND
MAY INCLUDE A HOUSE, CONDOMINIUM, APARTMENT, MOBILE HOME, OR
A ROOM IN ONE OF THOSE STRUCTURES. A VACANT LOT OR BUSINESS
ADDRESS MAY ALSO BE CONSIDERED A HOME OR PLACE OF ABODE.
(II) IN DETERMINING WHAT IS THE PRINCIPAL OR PRIMARY PLACE
OF ABODE OF AN ILLEGAL ALIEN, THE FOLLOWING CIRCUMSTANCES
RELATING TO THE ILLEGAL ALIEN MUST BE TAKEN INTO ACCOUNT:
BUSINESS PURSUITS; EMPLOYMENT; INCOME SOURCES; AGE; MARITAL
STATUS; RESIDENCE OF PARENTS, SPOUSE, OR PARTNER, AND CHILDREN, IF
ANY; LEASEHOLDS; LOCATION OF PERSONAL AND REAL PROPERTY;
EXISTENCE OF ANY OTHER RESIDENCE AND THE AMOUNT OF TIME SPENT AT
EACH RESIDENCE; AND MOTOR VEHICLE REGISTRATION; OR
(b) THAT, IF THE PERSON IS HOMELESS, THE MAILING ADDRESS OF
THE PERSON IS WITHIN THE BOUNDARIES OF THE PUBLIC ENTITY THAT HAS
ESTABLISHED A SANCTUARY JURISDICTION. THE MAILING ADDRESS OF A
HOMELESS PERSON MAY INCLUDE THE MAILING ADDRESS OF A SHELTER, A
HOMELESS SERVICE PROVIDER, OR A PRIVATE RESIDENCE; OR
(c) THAT THE PERSON STAYS, LIVES, WORKS, INHABITS, OR
ENGAGES IN LEISURE ACTIVITIES WITHIN THE BOUNDARIES OF THE PUBLIC
ENTITY THAT HAS ESTABLISHED A SANCTUARY POLICY BECAUSE OF ANY
PERCEIVED SANCTUARY POLICY BENEFIT HE OR SHE MAY ENJOY IN ORDER
TO CONTINUE VIOLATING FEDERAL IMMIGRATION LAW.

(5.9) "SANCTUARY JURISDICTION POLICY" MEANS A PUBLIC ENTITY
HAS ADOPTED A LAW, ORDINANCE, POLICY, OR PRACTICE:
(a) THAT IS IN VIOLATION OF 8 U.S.C. SEC. 1373 BY PROHIBITING
OR IN ANY WAY RESTRICTING A PUBLIC ENTITY OR A PUBLIC EMPLOYEE
FROM SENDING TO, OR RECEIVING FROM, A FEDERAL IMMIGRATION AGENCY
INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS,
LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL; OR
(b) THAT IS IN VIOLATION OF 8 U.S.C. SEC. 1373 BY PROHIBITING
OR RESTRICTING IN ANY WAY A PUBLIC ENTITY OR A PUBLIC EMPLOYEE
FROM DOING ANY OF THE FOLLOWING WITH RESPECT TO INFORMATION REGARDING THE IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL:

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

(II) MAINTAINING SUCH INFORMATION; OR

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

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

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

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

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

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

(B) THE PERSON WHO ENGAGED IN THE CRIMINAL ACTIVITY IS DETERMINED TO BE AN ILLEGAL ALIEN, AS LEGALLY DEFINED BY FEDERAL IMMIGRATION LAW;
(C) The person who engaged in the criminal activity had established residency in the public entity;

(D) The person is convicted of the crime that caused the plaintiff's injury; and

(E) The criminal activity is a proximate cause of the plaintiff's injury.

(II) Nothing in this subsection (1)(j) shall be construed to require a public entity 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 federal immigration law.

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

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

SECTION 7. 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.