

LIABILITY FOR SANCTUARY CITIES

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House Bill 5600 as introduced
Sponsor: Rep. Lynn Afendoulis
Committee: Local Government and Municipal Finance
Complete to 3-20-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5600 would amend the Governmental Liability for Negligence Act to make political subdivisions that declare themselves to be sanctuaries liable for acts committed by individuals protected by the designation.

Under the bill, a *sanctuary city* would be liable for personal injury, property damage, or death that directly resulted from the commission of a felony in the sanctuary city committed by an individual that was not a citizen of or lawfully present in the United States. A civil action could be brought against the sanctuary city by anyone who was personally injured or whose property was damaged or by the spouse, parent, or child of someone who died as the direct result of a felony in the sanctuary city.

Sanctuary city would mean a *political subdivision* that adopts an ordinance, policy, or practice that prohibits or restricts the political subdivision or an officer, employee, member, or volunteer of the political subdivision from doing either of the following:

- Sending, receiving, maintaining, or exchanging information with any federal, state, or local governmental agency regarding the citizenship or immigration status of an individual.
- Complying with a lawful request of Homeland Security made under section 236 or 287 of the federal Immigration and Nationality Act, which respectively address the apprehension and detention of aliens and the powers of immigration officers and employees.

Political subdivision means a city, village, township, county, county road commission, school district, community college district, port district, metropolitan district, or transportation authority; a combination of any of those entities when acting jointly; a district or authority authorized by law or formed by one or more political subdivisions; or an agency, department, court, board, or council of a political subdivision.

If a political subdivision complied with a detainer issued by Homeland Security under section 236 or 287 of the Immigration and Nationality Act, the bill states that the political subdivision would be acting as an agent of Homeland Security and would have to comply with the relevant requirements concerning detainer of aliens for violation of controlled substances laws and the power and authority to conduct searches. A political subdivision, or an officer, employee, member, or volunteer of a political subdivision, would not be liable for an action taken in accordance with a detainer, but this immunity would not apply to a knowing violation of an individual's civil or constitutional rights.

The statute of limitations for an action against a political subdivision, as described above, would be the later of 10 years after the commission of a felony or 10 years after the death of an individual that was the direct result of the felony.

MCL 691.1401, 691.1407, and 691.1411

BACKGROUND:

In recent years, some cities have declined to enforce federal immigration laws, with some even holding themselves out as "sanctuaries" to undocumented immigrants. Several cities in Michigan have declared themselves to be "welcoming" cities, and have directives for police not to inquire about an individual's immigration status. Lansing briefly declared itself to be a sanctuary city by council resolution on April 3, 2017, but rescinded the resolution on April 12. An estimated 200 cities across the country, including New York, Los Angeles, and Chicago, have declared themselves to be sanctuary cities. President Trump has warned that sanctuary cities could lose federal funding for failing to comply or cooperate with immigration authorities.

House Bills 4105 and 4334 of the 2017-18 legislative session¹ proposed to prohibit local units of government and counties from enacting or enforcing laws that limited communication and cooperation with federal officials concerning the immigration status of an individual in Michigan. They would have also declared such a law void and unenforceable. The bills were reported by the House Local Government committee in June of 2017. House Bills 4083 and 4090 have been introduced to address the same issue for the current session and have been referred to the House Committee on Ways and Means.

FISCAL IMPACT:

House Bill 5600 would increase costs for local units of government if they were found liable under the provisions of the bill. The magnitude of the costs would vary and would depend on the liability as determined in a civil trial. An estimate of civil actions that would be brought under the bill is not available. Even if the local unit of government was not found liable, it could incur legal costs.

The bill could also have an indeterminate fiscal impact on local court systems that would depend on how provisions of the bill affected court caseloads and related administrative costs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ House Fiscal Agency analysis of HBs 4105 and 4334 of 2017-18. <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-4105-D0F20ECD.pdf>