

of the first class and where the constitutional offices of sheriff and jailer have been consolidated;

- the Department of Corrections or any of its subunits; and
- a campus security authority defined as campus police, security officers, and any official at a postsecondary education institution who has significant responsibility for student and campus activities, including student discipline, student housing, student judicial affairs, and student life administration. Professional mental health, pastoral, and other licensed counselors when functioning in that capacity **are not considered campus security authorities.**
- Law enforcement official is an elected or appointed officer, peace officer or other employee that oversees or serves within a law enforcement agency.
- Public agency includes every state or local government office or department, board, commission, council, school district, court or judicial agency, higher education boards, and receives 25% of its financial support from the Commonwealth of Kentucky,
- Public official is any elected or appointed official of a public agency.
- Sanctuary policy means any order, ordinance, resolution, or policy, written or unwritten that:
 - Limits or prohibits law enforcement or public agencies from communicating or cooperating with federal agencies, federal law enforcement officers or another state or local law enforcement agency, law enforcement official, or public agency to verify or report the immigration status of a person within the state;
 - Grants illegal immigrants the right to lawful presence or status within this state;
 - Prohibits Federal, State, or local law enforcement or government entities or officials from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual (U.S.C. sec. 1373 and 1644);
 - Restricts law enforcement agencies and public agencies from cooperating or complying with detainers, including maintaining custody of an immigrant, or the transfer of an immigrant to the United States Immigration and Customs Enforcement, or another federal agency or federal law enforcement officer;
 - Requires United States Immigration and Customs Enforcement, or another federal law enforcement agency or federal law enforcement officer, to obtain a warrant or demonstrate more than probable cause before complying with detainers and other request from the United States Immigration and Customs Enforcement to maintain custody of an immigrant or to transfer an immigrant to the custody of United State Immigration and Customs Enforcement, or another federal agency or federal law enforcement officer;
 - Prevents law enforcement or public officials/employees from asking a person about his or her citizenship or immigration status, except when pertinent to an investigation or in order to provide information about visas designed to protect individuals providing assistance to law enforcement;
 - Prohibits a federal immigration officer, or other federal law enforcement officer or a law enforcement official from entering and conducting enforcement activities at a jail or other correctional facility.

Prohibits law enforcement and public agencies, officials and employees thereof, and institutions of higher learning, or the president, board, or administrator thereof from enacting, adopting, or enforcing any sanctuary policies.

Requires all law enforcement agencies and officials to use their best efforts, considering available resources, to assist federal law enforcement agencies, officers, or officials and only when acting within the scope of their official duties.

Requires all law enforcement agencies and officials to conduct any enforcement of federal immigration laws in compliance with federal and state laws.

Nothing herein shall be interpreted to create a new expectation or requirement related to the enforcement of federal immigration law without a legal and valid request for assistance, unless a law enforcement agency or official is not in compliance with this section.

Requires public agencies, public officials and employees of public agencies to use their best efforts, considering available resources, to assist federal agencies and law enforcement officers, or law enforcement officials in the enforcement of federal immigration law, and only in response to a legal and valid request.

Public agencies and officials and employees of public agencies are not required to comply with a request for assistance if the request is in direct conflict with federal or state law, or if the request falls does not relate to the agency's function, or falls outside the scope of the public official's or employee's job duties. Likewise, no public agency or official, or employee of a public agency is obliged to take any law enforcement action related to federal immigration law. Such action includes pursuit, detention, arrest, and interrogation.

Allows law enforcement and public agencies, and officials and employees thereof, to not perform any duty related to the illegal immigration status of a person that may be imposed herein with respect to a person who has provided verified proof of citizenship or is otherwise in the country legally. Law enforcement and public agencies, and officials and employees thereof, shall not consider race, color, religion, language, or national origin while performing any duty that may be imposed herein and as permitted by the Constitution of the United States or the Constitution of Kentucky.

Allows for the adoption of a policy allowing law enforcement agencies and officials and employees thereof, to inquire as to the nationality or immigration status of a victim or witness to a crime if that inquiry is pertinent to the investigation or is needed to provide information about federal visas designed to protect individuals providing assistance to law enforcement.

This section shall not apply to:

- domestic violence shelters;
- children's advocacy centers;
- rape crises centers;
- public advocacy offices;

- public health taxing districts;
- departments of health, districts of health, and independent districts of health;
- health departments or any other local health department;
- public official, officer, employee, volunteer, or any other person directly performing services on behalf of any of the above entities; or
- school districts, boards of education, charter schools, or employees or contractors thereof, including school resource officers. Nor does this section apply to information within educational records of an educational agency or institution and must comply with the Family Educational rights and Privacy Act and the Kentucky Family Education Rights and Privacy Act.

Any sanctuary policy adopted prior or after the effective date of this act is invalid, void, and unenforceable. The Governor, Attorney General, or any state constitutional officer may bring legal action to enforce the requirements herein.

This Act will be known as the Federal Immigration Cooperation Act of 2020.

The fiscal impact of SB 1 GA on local governments is not determinable. The time spent on fulfilling the requirements of SB 1 GA is not known and will be dependent on too many variable factors. It can be presumed that many of the obligations herein will run parallel to responsibilities local law enforcement currently handles. What can't be determined is the time or personnel that will be dedicated to the specific requirements of SB 1 GA.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The LM statement for SB 1 GA is identical to SB 1 SCS 1. The Senate adopted the SCS and did not adopt any additional amendments.

SB 1 SCS 1 makes the following changes to SB 1 as introduced:

- Expands those entities who by limiting or prohibiting communication with would meet the definition of sanctuary policy.
- Requires all law enforcement agencies and officials to assist (*instead of support*) federal agencies and officers or other law enforcement officials in the enforcement of federal immigration law.
- Requires all law enforcement agencies and officials conduct any enforcement of federal immigration laws in compliance with federal and state laws.
- Separates public agency requirements from the requirements of law enforcement agencies and details what is required of public agencies.
- Clarifies that no further duties are required by a law enforcement agency or a public agency or their officials and employees once a person has provided proof of citizenship or that he or she is in the country legally. Removes Kentucky driver's license or similar government identification as a valid proof of citizenship.
- Expands the list of entities that this section would not apply.

Data Source(s): LRC staff

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 2/5/20

