

**Local Government Mandate Statement  
Kentucky Legislative Research Commission  
2021 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 1198

**Bill #:** HB 242

**Document ID #:** 2629

**Bill Subject/Title:** AN ACT relating to compliance with state and federal law.

**Sponsor:** Representative Lynn Bechler

<u>X</u> City	<u>X</u> County	<u>X</u> Urban-County Unified Local Government
<u>X</u> Charter County	<u>X</u> Consolidated Local	

Office(s) Impacted: Law enforcement

Requirement: XX Mandatory \_\_\_ Optional

Effect on  
Powers & Duties: \_\_\_ Modifies Existing X Adds New \_\_\_ Eliminates Existing

**Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government**

HB 242 would forbid a local government from enacting or adopting sanctuary policies and prohibit those local governments who do so from receiving any money administered by a state agency or department until any such policy is repealed or no longer in effect.

**Section 1** would require local law enforcement to cooperate with federal law enforcement agencies for the enforcement of any state or federal law.

**Section 2** would define “illegal alien” as any person who is not a United States citizen or national who is in the United States unlawfully, and whose entry was without inspection or whose admission was as a nonimmigrant and the period of authorized stay as a nonimmigrant has expired.

**Section 2** would define “Sanctuary” as any local government having a “sanctuary policy,” defined as any ordinance which:

- Limits or prohibits a local government official or employee from:
  - Cooperating with federal agencies or officials to verify or report the immigration status of any alien within the local government’s geographical boundaries;
  - Undertaking law enforcement action to detect the presence of illegal aliens or to verify immigration status;
  - Questioning, arresting, or detaining any person for violations of federal civil immigration laws, regardless whether immigration status is an element of the crime;
  - Using local government resources or personnel for the purposes of detecting or apprehending illegal aliens;
  - Sending information to or requesting information from the United States Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, or any other federal agency;
  - Exchanging information with another local, state, or federal governmental entity.
- Grants to illegal aliens the right to lawful presence or status within the local government’s geographical boundaries in violation of federal law.
- Prohibits a local government from enacting or adopting sanctuary policies or taking any action which prohibits or discourages the enforcement of immigration laws.

Any member of the General Assembly may, under specified circumstances, request the Justice and Public Safety Cabinet (JPSC) hold a public hearing to determine whether a local government has sanctuary policies. The JPSC shall publish a list of all local governments determined to be sanctuaries.

Local governments shall provide each law enforcement officer with written notice of their duty to cooperate with state and federal agencies on immigration enforcement matters.

No later than January 1, 2022, each state and local law enforcement agency would be required to reduce to writing any unwritten or informal policies relating to immigration law enforcement, update all policies to be consistent with this legislation, and require each law enforcement officer or other employee to comply with these policies.

**Section 3** would establish a new section of KRS chapter 164 to prohibit an institution of higher education from enrolling, employing, or contracting with any illegal alien. A state resident would be authorized to file a complaint with a member of the General Assembly regarding an institution in violation of the prohibition; the member may or may not forward the complaint to the Justice and Public Safety Cabinet for an administrative hearing. If it is determined that the institution failed to adhere to these policies, the Finance and Administration Cabinet may withhold or intercept a proportional amount of state funds not

yet disbursed based on the number of days the institution was not in compliance. Information regarding noncompliant institutions would be made public.

To qualify for in-state tuition rates, a Kentucky resident must be a United States' citizen, a lawful permanent resident of the United States registered with the US Citizenship and Immigration Service, or be authorized by the US Immigration and Customs Enforcement to study at postsecondary institutions.

**The fiscal impact of HB 242 on local governments is expected to be minimal.**

Local governments would be required to update any current ordinances they have regarding immigration enforcement, and to enact ordinances requiring local law enforcement comply with their provisions. Local governments would incur costs associated with the drafting, publication, indexing and recording of adopted ordinances, and at least every five years, review and eliminate redundant, obsolete, inconsistent, and invalid provisions.

According to Kentucky League of Cities, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting an ordinance is influenced by its complexity and the amount of research that is necessary. In FY 2020, the average hourly rate was \$107. Rates for legal notices vary greatly depending on the length of the publication, the number of times it needs to be published and the newspaper in which the publication is placed. Therefore, these costs are unknown.

There would be minimal cost involved in disseminating any new policies, and may be training costs due to the encouraged relationship with federal agencies and officials.

Additionally, there may be costs for local officials and employees to attend and testify at required hearings held by the Justice and Public Safety Cabinet.

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

Part II applies to HB 242 as introduced.

**Data Source(s):** Kentucky League of Cities; LRC Staff

**Preparer:** Mary Stephens **Reviewer:** KHC **Date:** 1/11/21