

**Testimony of  
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Kansas Secretary of State**

**Committee on Federal and State Affairs  
Kansas Senate**

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## **Introduction**

Mr. Chairman and Members of the Committee, I come before you today both in my capacity as Kansas Secretary of State and in my capacity as former counsel to Attorney General John Ashcroft at the United States Department of Justice. In that capacity, I served as his chief adviser on immigration law. It is an honor to testify before you today regarding SB 158, which prohibits sanctuary cities and sanctuary counties in the State of Kansas, and SB 157 which initiates an agreement with the federal government for a limited number of Kansas Highway Patrol officers to receive special training in immigration enforcement.

## **Federal Law Prohibiting Sanctuary Cities**

In 1985, San Francisco became the first city to adopt a sanctuary policy that attempted to shield illegal aliens from deportation by federal authorities. In the ensuing ten years a limited number of other cities followed suit. However, the threat of cities undermining federal deportation authority prompted Congress in 1996 to enact a provision of federal law that very clearly prohibited any city, county, or state from adopting a sanctuary policy. The law prohibits cities from “prohibit[ing], or in any way restrict[ing], 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.” 8 U.S.C. § 1373(a); see also 8 U.S.C. § 1644. The law also requires the federal government to respond to any inquiry from a city or county about any alien’s legal status. 8 U.S.C. § 1373(c).

The United States Supreme Court commented on this statute in 2012: “Consultation between federal and state officials is an important feature of the immigration system. . . . And Congress has obligated ICE to respond to any request made by state officials for verification of a person’s citizenship or immigration status. See § 1373(c).” *Arizona v. United States*, 132 S. Ct. 2492, 2508 (2012).

The 1996 law was clear and unambiguous. There was only one problem with it: Congress assumed that cities would not violate federal law, so there was no need to include any penalty for cities that violated the law. (Even San Francisco was not technically in violation of the law until the 1996 law was passed.) Of course this assumption proved to be incorrect, as more and more cities across the country realized that they could get away with supporting illegal immigration by offering illegal aliens sanctuary.

## **The Spread of Sanctuary Cities and the Violence that Has Ensued**

In spite of the fact that Congress banned sanctuary cities, the number of sanctuary cities has exploded in the last twenty years. City after city has realized that they can get away with defying federal law and that the federal government will not impose any penalty upon them. The results have been devastating, including the loss of hundreds of American lives. For example, in 2008, illegal alien gang member Edwin Ramos killed

three members of the Bologna family in cold blood. Because of San Francisco's sanctuary policy, San Francisco authorities had refused to transfer Ramos to the custody of ICE just months before the murders.

In 2014, another high-profile murder occurred because of San Francisco's sanctuary policy. Katie Steinle was killed by illegal alien and seven-time felon Francisco Sanchez just months after San Francisco authorities had Sanchez in custody but refused to turn him over to ICE because of San Francisco's sanctuary policy.

There are now over three hundred sanctuary cities and counties in the United States. According to the Center for Immigration Studies ([www.cis.org](http://www.cis.org)), sanctuary city policies caused the release of more than 8,000 criminal offenders sought by ICE in a single eight-month period. Nearly 1,900 of those illegal aliens who were released were subsequently arrested for another crime within the same eight-month period. It is painfully clear that sanctuary cities create a grave safety risk for the citizens who live in those jurisdictions.

### **The Recent Emergence of Sanctuary Counties in Kansas**

In 2014, a new form of sanctuary jurisdiction emerged. It is a jurisdiction that refuses to comply with an ICE "detainer request" — a request from ICE that a particular illegal alien in state or county custody be held and transferred to ICE. These jurisdictions have emerged because of a deceptive campaign by the ACLU. In 2014, the ACLU convinced a federal judge in Oregon, that the standard form used by ICE to make such requests was flawed because it didn't contain the words "probable cause." In response to this decision, ICE immediately changed the wording of the forms to include the "probable cause" statement. So the decision of the court was obsolete and irrelevant from the moment it was issued. Nevertheless, the ACLU sent a deceptive letter to nearly every sheriff in the country declaring that ICE detainer requests violated the Fourth Amendment. The ACLU letter also intimated that they might to sue any jurisdiction that continued to comply with ICE detainer requests.

Unfortunately six counties in Kansas reacted in 2014 by adopting sanctuary policies whereby they do not comply with normal ICE detainer requests. Those counties are Johnson, Shawnee, Sedgwick, Butler, Harvey, and Finney. However, in 2017 the new sheriff of Johnson County acted quickly to repeal the county's sanctuary policy. So now there are five sanctuary counties remaining in Kansas.

### **How SB 158 Works, and the Model's Proven Success in Missouri**

SB 158 defines sanctuary city broadly, to cover every form of city or county policy that affords shelter to illegal aliens. Most importantly, it encompasses the policy of refusing to honor ICE detainer requests that in effect in five Kansas counties.

The enforcement mechanism is simple. A jurisdiction that violates this law loses state funding. The arbiter of whether or not a jurisdiction is in violation is the attorney

general. A similar provision with this same enforcement mechanism was added to Missouri law in 2008 (a bill that I helped draft). It has worked extremely well in deterring cities and counties from taking this step. No jurisdiction has dared to jeopardize its access to state funds, so the attorney general has never had to rule on the question of whether a city is in violation or not.

Last year the same bill was passed favorably out of the House Judiciary Committee. However it never came to a vote on the House floor. I encourage the committee to support SB 158, so that all cities and counties in Kansas comply with federal law, so that illegal aliens are not given sanctuary in our State, and so that Kansans are not placed in danger by the release of illegal alien criminals who ICE is seeking to detain.

### **SB 157 and Deputization to Exercise Immigration Enforcement Powers**

I also urge the committee to support SB 157, a bill that would compel the Kansas Highway Patrol to enter into a “Section 287(g) Agreement” with the United States Department of Homeland Security. *Three states already have such agreements in place: Missouri, Florida, and Alabama.* Under such agreements, the state law enforcement agency designates a specific number of officers to receive special training in immigration enforcement from the federal government. In effect, they become deputized as temporary ICE agents. With these additional powers, they can make immigration arrests, undertake immigration investigations, take custody of illegal aliens for ICE, and process cases for removal.

It is important to understand that these officers can take their ICE hat on and off at will. They need not spend any time at all on immigration matters if their normal KHP duties require their full time and attention. However, if KHP leadership deems it advisable, the specially-trained officers can undertake ICE functions where necessary.

One example of a situation in which this special training can be very useful is when a KHP officer discovers a truck full of illegal aliens being smuggled on a Kansas highway during the middle of the night. Waiting for ICE officers based in Kansas City, Missouri, to come and take custody of the aliens may be impractical and may take too long. But one of the specially-trained KHP officers may be nearby and available to take the aliens into custody and initiate removal proceedings.

In his first executive order on immigration, President Trump directed the Department of Homeland Security to enter into new 287(g) agreements with additional states. SB 157 responds to that invitation. It also helps restore the rule of law in immigration.