

HOUSE BILL 915<sup>1</sup>: GEORGIA ANTI-SANCTUARY ACT

*Amending Title 50*

**First signature:** Representative Philip Singleton (71st)

**Co-Sponsors:** Representative Steve Tarvin (2<sup>nd</sup>), Representative Scot Turner (21<sup>st</sup>), Representative Ken Pullin (131<sup>st</sup>), Representative Kevin Cooke (18<sup>th</sup>), and Representative Michael Caldwell (20<sup>th</sup>).

**Summary:** “To amend title 50 of the Official Code of Georgia Annotated, relating to state government, so as to enact the “Georgia Anti-Sanctuary Act”; to provide for a short title; to provide for legislative findings and intent; to provide for definitions; to prohibit sanctuary policies; to require cooperation with federal immigration authorities; to impose duties regarding federal immigration detainers; to provide penalties for failing to comply with federal immigration detainers; to require correctional facilities to enter into agreements for reimbursement of costs; to provide for complaints of violations; to provide for the Attorney General to investigate violations and bring enforcement suits; to provide for jurisdiction and venue; to provide for remedies; to provide for civil penalties; to provide for the Attorney General to defend suits against certain entities under certain circumstances; to provide for a duty to report and whistle-blower protections; to provide for a private civil cause of action for injury or death arising out of sanctuary policies; to provide for waiver of sovereign and governmental immunity; to provide for trial by jury; to provide for reasonable costs and attorneys’ fees; to require written law enforcement policies; to provide for implementation; to prohibit discrimination; to provide for severability; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.”<sup>2</sup>

**Status:** House Second Readers on February 19, 2020.<sup>3</sup>

TEXT OF HOUSE BILL 915

**SECTION 1.**

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new chapter to read as follows:

“CHAPTER 36A

50-36-A-1.

---

<sup>1</sup> H.B. 915, Gen. Assemb., Reg. Sess. (Ga. 2020), available at <http://www.legis.ga.gov/Legislation/20192020/189600.pdf> (last visited October 11, 2020).

<sup>2</sup> *Id.*

<sup>3</sup> 2019-2020 Regular Session-HB 915, *Georgia Anti-Sanctuary Act; enact*, GA. GEN. ASSEMB., <http://www.legis.ga.gov/Legislation/en-US/display/20192020/HB/915> (last visited October 4, 2020) [hereinafter H.B. 915 Status Sheet].

This chapter shall be known and may be cited as the ‘Georgia Anti-Sanctuary Act.’

50-36A-2.

(a) The General Assembly finds that it is an important state interest that state and local government entities and their officials have an affirmative duty to all citizens and other persons lawfully present in the United States to assist the federal government in the enforcement of federal immigration laws within this state, including their compliance with federal immigration detainers.

(b) The General Assembly further finds that in the interest of public safety and adherence to federal law this state support federal immigration enforcement efforts and ensure that such efforts are not impeded or thwarted by state or local laws, policies, practices, procedures, or customs.

(c) It is the intent of the General Assembly that state and local government entities and their officials who encourage persons unlawfully present in the United States to locate within this state or who shield such persons from personal responsibility for their unlawful actions should be held accountable.

50-36-A-3.

As used in this chapter, the term:

- (1) ‘Federal immigration agency’ means the United States Department of Justice and the United States Department of Homeland Security, a division within such an agency, including United States Immigration and Customs Enforcement and United States Customs and Border Protection, any successor agency, and any other federal agency charged with the enforcement of immigration law.
- (2) ‘Immigration detainer’ means a facially sufficient written or electronic request issued by a federal Immigration agency using that agency’s official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. Sections 1226 and 1357 along with a warrant described in subparagraph (B) of this paragraph. For purposes of this paragraph, an immigration detainer is deemed facially sufficient if:
  - (A)(i) The federal immigration agency’s official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or
  - (ii) The federal immigration agency’s official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that indicates that the federal immigration agency has probable cause to believe that the person to be detained is a removable alien under federal immigration law; and

(B) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law.

- (3) 'Inmate' means a person in the custody of a law enforcement agency.
- (4) 'Law enforcement agency' means an agency in this state charged with enforcement of federal, state, county, or municipal laws or with managing custody of detained persons in this state and includes, but is not limited to, municipal police departments, sheriff's offices, county and state police departments, state college and university police departments, county correctional agencies, and the Department of Corrections.
- (5) 'Local government entity' means any county, municipality, or other political subdivision of this state.
- (6) 'Sanctuary policy' means a law, policy, practice, procedure, or custom, formal or informal, written or unwritten, adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. Section 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in or prohibit the agency from:
- (A) Complying with an immigration detainer, including, but not limited to, requiring a judicial warrant or other judicial order prior to complying with an immigration detainer;
  - (B) Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;
  - (C) Providing a federal immigration agency access to an inmate for interview;
  - (D) Participating in any program or agreement authorized under Section 287 of the federal Immigration and Nationality Act, 8 105 U.S.C. Section 1357; or
  - (E) Providing a federal immigration agency with an inmate's incarceration status or release date.
- (7) 'State entity' means the State of Georgia or any office, board, bureau, commission, department, branch, division, or institution thereof, including institutions within the University System of Georgia, the Technical College System of Georgia, and all other public postsecondary educational institutions in the state.

50-36A-4.

(a) A state entity, local governmental entity, or law enforcement agency shall not adopt or have in effect a sanctuary policy.

(b) A sanctuary policy that is in effect on or after July 1, 2020, violates the public policy of this state and shall be repealed on or before September 1, 2020.

50-36A-5.

(a) A law enforcement agency shall use best efforts to support the enforcement of federal immigration law. This subsection shall apply to an official, representative, agent or employee of the entity or agency only when he or she is acting within the scope of his or her official duties or within the scope of his or her employment.

(b) Except as otherwise expressly prohibited by federal law, a state entity, local governmental entity, or law enforcement agency, or an employee, an agent, or a representative of the entity or agency, may not prohibit or in any way restrict a law enforcement agency from taking any of the following actions with respect to information regarding a person's immigration status:

- (1) Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency for purposes of this chapter;
- (2) Recording and maintaining the information for purposes of this chapter;
- (3) Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency for purposes of this chapter;
- (4) Using the information to comply with an immigration detainer; or
- (5) Using the information to confirm the identity of a person who is detained by a law enforcement agency.

(c)(1) For purposes of this subsection, the term 'applicable criminal case' means a criminal case in which:

(A) The judgment requires the defendant to be confined in a secure correctional facility; and

(B) The judge:

(i) Indicates in the record that the defendant is subject to an immigration detainer; or

(ii) Otherwise indicates in the record that the defendant is subject to a transfer into federal custody.

(2) In an applicable criminal case, when the judge sentences a defendant who is the subject of an immigration detainer to confinement, the judge shall issue an order requiring the secure correctional facility in which the defendant is to be confined to reduce the defendant's sentence by a period of not more than 12 days on the facility's determination that the reduction in sentence will facilitate the seamless transfer of the defendant into federal custody.

(3) If the information specified in subparagraph (c)(1)(B) is not available at the time the sentence is pronounced in the case but is received by a law enforcement agency afterward, the law enforcement agency shall notify the judge who shall issue the order described by paragraph (2) of this subsection as soon as the information becomes available.

(4) When a county correctional facility, municipal correctional facility, or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in the law enforcement agency's custody, such facility may securely transport the person to a federal facility in this state or to another point of transfer to federal custody outside the jurisdiction of such law enforcement agency. A law enforcement agency shall transfer a person who is subject to an immigration detainer and is confined in a secure correctional facility to the custody of a federal immigration agency not earlier than 12 days before his or her release date. A law enforcement agency shall obtain judicial authorization before securely transporting such person to a point of transfer outside of this state.

50-36A-6.

(a) A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency shall:

(1) Provide notice to the judge authorized to grant or deny the person's release on bail or bond that the person is subject to an immigration detainer;

(2) Record in the person's case file that the person is subject to an immigration detainer; and

(3) Upon determining that the immigration detainer is in accordance with paragraph (2) of Code Section 50-36A-3, comply with the requests made in the immigration detainer.

(b) A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency shall not require a judicial warrant or other judicial order prior to complying with the requests made in the immigration detainer.

(c) A law enforcement agency is not required to perform a duty imposed by subsection (a) of this Code section with respect to a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed that duty before the transfer.

(d) A judge who receives notice that a person is subject to an immigration detainer shall cause the fact to be recorded in the court record, regardless of whether the notice is received before or after a judgment in the case.

50-36A-7.

It shall be illegal for a person who is a sheriff, chief of police, warden, constable, or otherwise has primary authority for administering a correctional facility who has custody of a person subject to an immigration detainer to knowingly fail to comply with the requests made in an immigration detainer. A violation of this Code section shall be a misdemeanor of a high and aggravated nature.

50-36A-8.

(a) Each county correctional facility, municipal correctional facility, and the Department of Corrections shall enter into an agreement or agreements with a federal immigration agency for temporarily housing persons who are the subject of immigration detainers and for the payment of the costs of housing and detaining those persons.

(b) A compliant agreement includes any contract between a correctional facility and a federal immigration agency for housing or detaining persons subject to immigration detainers, such as basic ordering agreements, agreements authorized by Section 287 of the federal Immigration and Nationality Act, 8 U.S.C. Section 1357, or successor agreements and other similar agreements authorized by federal law.

50-36A-9.

(a) Any person, including a federal agency, may file a complaint with the Attorney General alleging that a state entity, local governmental entity, or law enforcement agency has violated or

is violating this chapter if the person offers evidence to support such an allegation. The person shall include with the complaint any evidence the person has in support of the complaint.

(b) A state entity, local governmental entity, or law enforcement agency for which the Attorney General has received a complaint pursuant to this Code section shall comply with any document requests, including a request for supporting documents, from the Attorney General relating to the complaint.

(c) If the Attorney General determines that a complaint filed against a state entity, local governmental entity, or law enforcement agency is valid, the Attorney General may file a petition for declaratory or injunctive relief, mandamus, or other appropriate relief in the Superior Court of Fulton County or in a county in which the principal office of the entity or agency is located to compel the entity or department that is suspected of violating this chapter to comply.

(d) If a court finds a state entity, local governmental entity, or law enforcement agency has violated this chapter, the court shall immediately enjoin the violation. The court shall have continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceeding as provided by law.

(e) An order approving a consent decree or granting any relief under this Code section shall include written findings of fact that describe with specificity the existence and nature of the violation.

(f) In an appeal of a suit brought under this Code section, the appellate court shall render its final order or judgment with the least possible delay.

50-36A-10.

(a) In addition to any other penalty, or remedy provided by law, a state entity, local governmental entity, or law enforcement agency that is found by a court to have intentionally violated a provision of this chapter shall be subject to a civil penalty in an amount of not less than:

- (1) One thousand dollars and not more than \$1,500.00 for the first violation; and
- (2) Twenty-five thousand dollars and not more than \$25,500.00 for each subsequent violation.

(b) On and after September 1, 2020, each day of a continuing violation shall constitute a separate violation for the civil penalty under this Code section.

(c) The court hearing an action brought under Code Section 50-36A-9 against a state entity, local governmental entity, or law enforcement agency shall determine the amount of the civil penalty under this Code section.

(d) A civil penalty collected under this Code section shall be deposited to the credit of the Georgia Crime Victims Emergency Fund established under Code Section 17-15-9.

(e) Sovereign immunity and governmental immunity of state entities, local governmental entities, and law enforcement agencies is expressly waived to the extent of liability created by this Code section.

50-36A-11.

(a) The Attorney General shall defend a local government entity or law enforcement agency in any action in any court if:

(1) The executive head or governing body, as applicable, of the local governmental entity or law enforcement agency requests the Attorney General's assistance in the defense; and

(2) The Attorney General determines that the cause of action arises out of a claim involving the local governmental entity's or law enforcement agency's good faith compliance with an immigration detainer.

(b) If the Attorney General defends a local governmental entity or law enforcement agency under this Code section, the state shall be liable for the expenses, costs, judgment, or settlement of the claims arising out of the representation. The Attorney General may settle or compromise any and all such claims.

(c) The state shall not be liable for any expenses, costs, judgments, or settlements of any claims against a local governmental entity or law enforcement agency that is not represented by the Attorney General under this Code section.

50-36A-12.

(a) An official, representative, agent, or employee of a state entity, local governmental entity, or law enforcement agency shall promptly report a known or probable violation of this chapter to the Attorney General.

(b) A state entity, local governmental entity, or law enforcement agency shall not retaliate, as defined by paragraph (5) of subsection (a) of Code Section 45-1-4, against any official, representative, agent, or employee for complying with subsection (a) of this Code section.

(c) All provisions of Code Section 45-1-4 shall apply to an official, representative, agent, or employee of a state entity, local governmental entity, or law enforcement agency who is retaliated against, as defined by paragraph (5) of subsection (a) of Code Section 45-1-4, by any official, representative, agent, or employee because he or she complied with subsection (a) of this Code section.

50-36A-13.

(a) A person injured by the tortious acts or omissions of a person unlawfully present in the United States, or the personal representative of a person killed by the tortious acts or omissions of a person unlawfully present in the United States, shall have a cause of action for damages against a state entity, local governmental entity, or law enforcement agency upon proof by the preponderance of the evidence of:

(1) The existence of a sanctuary policy by such state entity, local governmental entity, or law enforcement agency; and

(2) A failure to comply with this chapter resulting in such person having access to the person injured or killed when the tortious acts or omissions occurred.

(b) Sovereign immunity and governmental immunity of state entities, local governmental entities, or law enforcement agencies is expressly waived to the extent of liability created by this Code section.

(c) Trial by jury shall be a matter of right in an action brought under this Code section.

(d) The court in an action brought under this Code section may award reasonable costs and attorneys' fees to the prevailing party.

#### 50-36A-14.

On or before September 1, 2020, every law enforcement agency shall:

(1) Formalize in writing any unwritten, informal policies relating to the enforcement of immigration laws; and

(2) Update the agency's policies to be consistent with this chapter, to require each officer or other employee of the law enforcement agency to fully comply with this chapter, and to prohibit an officer or other employee of the law enforcement agency from preventing law enforcement agency personnel from fully complying with this chapter.

#### 50-36A-15.

(a) This chapter shall be implemented in a manner consistent with federal laws and regulations governing immigration, protecting the civil rights of all persons, and respecting the privileges and immunities of United States citizens.

(b) A state entity, local governmental entity, or law enforcement agency, or a person employed by or otherwise under the direction or control of a state entity, local governmental entity, or law enforcement agency, shall not base its actions under this chapter on the gender, race, color, religion, language, national origin, or physical disability of a person except to the extent authorized by the United States Constitution, the Constitution of the State of Georgia, or federal law.

(c) The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter."

### **SECTION 2.**

This Act shall become effective on July 1, 2020.

### **SECTION 3.**

All laws and parts of law in conflict with this Act are repealed.

#### SPONSOR'S RATIONALE

Representative Philip Singleton (“Representative Singleton”) sponsors House Bill 915, which requires “the state to support federal immigration enforcement efforts and ensures that these efforts are not impeded by any state or local laws or practices.”<sup>4</sup> Representative Singleton’s Bill creates stricter penalties on any state entity or law enforcement agency that fails to support federal immigration enforcement efforts within the State of Georgia.

Currently Georgia law prohibits sanctuary cities.<sup>5</sup> Presently, the only penalty for not complying with federal immigration regulations is the denial of state funding or federal funding.<sup>6</sup> Despite current Georgia legislation, Representative Singleton’s Bill creates civil penalties in an effort to enforce the anti-sanctuary policies.<sup>7</sup> House Bill 915 addresses issues related to illegal aliens who have been convicted of a crime in the United States.<sup>8</sup> Representative Singleton’s Bill will allow victims of violent crimes committed by illegal aliens in sanctuary cities to seek punitive damages against these cities.<sup>9</sup>

If the Bill becomes law, “[s]tate entities and agencies would be required to comply with federal immigration detainers.”<sup>10</sup> An immigration detainer is defined within House Bill 915 as, “a facially sufficient written or electronic request issued by a federal immigration agency . . . to request that another law enforcement agency detain a person based on probable cause . . . is a removable alien under federal immigration law.”<sup>11</sup> Additionally, state entities and agencies would be prohibited from withholding information or records from federal immigration enforcement efforts regarding an immigrant’s status.<sup>12</sup> Furthermore, under House Bill 915, it would be illegal for state or local law enforcement officers who have custody of an illegal alien to deny or knowingly fail to comply with an alien’s detainer request.<sup>13</sup>

“Radical efforts to protect criminal illegal immigrants, which burden our state and federal government, and put our citizens in danger, will not be unchecked in our great state,” expressed

---

<sup>4</sup> Philip Singleton, *Anti-Sanctuary Immigration Legislation Introduced in the State House*, INSIDER ADVANTAGE (February 17, 2020), <https://insideradvantage.com/2020/02/17/anti-sanctuary-immigration-legislation-introduced-in-the-state-house/>.

<sup>5</sup>Ga. Code Ann. § 36-80-23 (Lexis Advance through the 2020 Regular Session of the General Assembly). This statute was signed into law in 2009 and prohibits local governments from adopting policies that would restrict local officials from communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information. Maryam Saleh, *Georgia’s Leading GOP Candidate for Governor is on an Anti-Sanctuary Crusade*, THE INTERCEPT (June 18, 2018, 7:00 a.m.), <https://theintercept.com/2018/06/18/casey-cagle-georgia-sanctuary-immigration-enforcement-review-board/>.

<sup>6</sup> Sarah Fay Campbell, *Singleton Introduces Bill to Stop ‘Sanctuary Cities’* THE NEWNAN TIMES-HERALD (February 11, 2020, 3:31P.M.), <https://times-herald.com/news/2020/02/singleton-introduces-bill-to-stop-sanctuary-cities>.

<sup>7</sup> Fox News Channel, *Georgia GOP Push Anti-Sanctuary Cities Bill*, Fox News Channel (February 25, 2020) (beginning at 0:55), available at <https://video.foxnews.com/v/6135715181001#sp=show-clips> (last visited Apr. 11, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Neil Munro, *GOP Rep. Pushes Anti-Sanctuary Cities Bill in Georgia*, BREITBART (February 24, 2020), <https://www.breitbart.com/economy/2020/02/24/gop-rep-pushes-anti-sanctuary-bill-in-georgia/>.

<sup>11</sup> H.B. 915 Gen. Assemb., Reg. Sess. (Ga. 2020), available at <http://www.legis.ga.gov/Legislation/20192020/189600.pdf> (last visited October 11, 2020).

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Id.* at 6.

Representative Singleton, indicating that his Bill will penalize any state entity or law enforcement agency that impedes federal immigration enforcement.<sup>14</sup> Representative Singleton believes that House Bill 915 will be signed into law, since it was modeled after Texas Senate Bill 4 and Florida Senate Bill 168.<sup>15</sup> Both Bills have been signed into law in their respective states and have both been upheld in federal court rulings.<sup>16</sup>

#### OPPOSITION'S RATIONALE

The Asian American Advocacy Fund ("AAAF"), a 501(c)4 social welfare organization, strongly opposes House Bill 915.<sup>17</sup> The AAAF is worried that this Bill would increase costs to state and county governments.<sup>18</sup> The AAAF contends that if House Bill 915 requires all local law enforcement to cooperate with Immigration and Customs Enforcement ("ICE"), "it could lead to a situation where all officers could be required to be deputized and take on some of the duties of ICE agents."<sup>19</sup> Consequently, the cost to deputize every officer would come out of state funding and costs.<sup>20</sup>

The AAAF is concerned that House Bill 915 will make communities less safe, by breaking down trust between law enforcement agencies and the people they protect and serve.<sup>21</sup> The AAAF believes that the lack of trust would lead to "fear in immigrant communities, preventing immigrant victims and witnesses of crime from coming forward."<sup>22</sup>

The AAAF is further troubled by House Bill 915 because the Bill allows local law enforcement to enforce federal immigration law and requires mandatory compliance with ICE detainers, which could potentially expose law enforcement agencies to "liability under the Fourth Amendment for an illegal arrest or detention".<sup>23</sup>

Finally, the AAAF is nervous about the civil and criminal penalties for state and local governmental entities and law enforcement agencies that violate the Bill's provisions.<sup>24</sup> Likewise, the AAAF criticizes the Bill and its creation of a "private cause of action against state and local government entities or law enforcement agency who violate the statute".<sup>25</sup>

Therefore, the AAAF is adamantly opposed to House Bill 915 and the organization seeks to spread its concerns with Georgia citizens.

---

<sup>14</sup> Campbell, *supra* note 6.

<sup>15</sup> *Id.* The Texas law allows local law enforcement officers to question the immigration status of people they detain or arrest and punishes local government department heads and elected officials who do not cooperate with federal immigration detainers (requests by agents to turn over immigrants subject to possible deportation) in the form of jail time and penalties that exceed \$25,000.00. (Julian Aguilar, *Federal appeals court's ruling upholds most of Texas' "sanctuary cities" law*, THE TEXAS TRIBUNE (March 14, 2018), <https://www.texastribune.org/2018/03/13/texas-immigration-sanctuary-cities-law-court/>). The Florida law is similar as it prohibits local sanctuary policies that limit enforcement of federal immigration laws and requires compliance with immigration detainer requests. S.B. 168, Gen. Assemb., Gen. Sess. (Fla. 2019), available at <http://laws.flrules.org/2019/102> (last visited November 1, 2020).

<sup>16</sup> *Id.*

<sup>17</sup> AAAF Staff, *Anti-Sanctuary, HB 915*, ASIAN AMERICAN ADVOCACY FUND (March 11, 2020), <https://www.asianamericanadvocacyfund.org/advocacy/anti-sanctuary>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

Project South, a Southern-based leadership development organization, opposes House Bill 915 as well.<sup>26</sup> Project South not only believes that House Bill 915 is a waste of state and local resources but that the Bill will endanger communities.<sup>27</sup> By forcing local law enforcement to contract with ICE, Project South argues that House Bill 915 will “increase racial profiling by targeting communities of color” and potentially putting international students attending public colleges and/or universities at risk.<sup>28</sup>

Project South fears that if enacted, House Bill 915 will “destroy community trust in the judicial process” by preventing individuals from getting a fair process in court.<sup>29</sup> In addition, due to the Bill’s mandate that judges actively participate in federal immigration enforcement policies beyond the scope of their role, Project South believes that this mandate further destroys community trust in the judicial process.<sup>30</sup>

In addition, Project South worries that House Bill 915 will destroy community trust by creating an “unconstitutional and error-prone deportation pipeline using local law enforcement.”<sup>31</sup>

Finally, Project South believes that House Bill 915 spreads “fear mongering propaganda by allowing individuals who have allegedly been injured by an undocumented individual to sue the locality, state entity, or law enforcement agency that at the time had a ‘sanctuary policy’ in place.”<sup>32</sup>

Thus, Project South is strongly opposed to House Bill 915 due to the Bill’s likely increase to state and local resources and the Bill’s potential risk of endangering communities.

#### IMPLICATIONS IN GEORGIA

If passed, this Bill would not only require all state and local law enforcement entities to comply with Federal Immigration Officers regarding detained immigrants but would also impose civil and criminal penalties on those entities that have a sanctuary policy.<sup>33</sup>

The Bill further allows private causes of actions against state and local government agencies and law enforcement agencies, for victims of crimes perpetrated by illegal immigrants within sanctuary cities.<sup>34</sup>

The potential long-term implications of the Bill can be seen in the results of states that have implemented similar Bills, such as Texas and Florida.<sup>35</sup> In Miami-Dade County in Florida, which

---

<sup>26</sup> Project South, *Vote No on HB 915 Anti-Sanctuary “Detain First, Ask Later” Bill*, PROJECT SOUTH INSTITUTE FOR THE ELIMINATION OF POVERTY & GENOCIDE, <https://projectsouth.org/wp-content/uploads/2020/02/HB-915-Anti-Sanctuary-Bill-.pdf>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> H.B. 915, Gen. Assemb., Reg. Sess. (Ga. 2020), available at <http://www.legis.ga.gov/Legislation/20192020/189600.pdf> (last visited October 11, 2020).

<sup>34</sup> *Id.* at 1.

<sup>35</sup> Fla. Stat. § 908-102, (LexisNexis, Lexis Advance through all 2020 general legislation); Tex. Gov’t Code § 752.051 (LexisNexis, Lexis Advance through the most recent legislation which is the 2019 Regular Session, 86<sup>th</sup> Legislature, and the 2019 election results).

implemented cooperation with ICE in January 2017, the County charged its taxpayers \$13.6 million dollars for one year of local law enforcement cooperation with ICE.<sup>36</sup>

In Texas, a new movement started after the passing of Senate Bill 4 that renamed the cities which were originally labeled as “sanctuary cities” to “freedom cities”.<sup>37</sup> Certain cities in Texas, such as Austin began calling itself a “freedom city” that created “new ways for city officials to comply legally with federal rules and state laws, while still protecting undocumented immigrants.”<sup>38</sup> For example, under the Texas Senate Bill 4, police officers can ask people they stop about their immigration status, however one of the resolutions passed by the city of Austin instructs police to also inform the people they stop that they may refuse to answer those questions.<sup>39</sup>

In the state of Georgia there are only three counties in which there are sanctuary cities located: Clarke County, Clayton County and DeKalb County.<sup>40</sup>

Summarily, the passing of the Bill in the state of Georgia could resemble other states with similar laws such as Texas and Florida, such as increasing taxes for local law enforcement cooperation with ICE. However, there are only three declared sanctuary counties in Georgia.

#### LEGISLATIVE GENEALOGY

House Bill 915 was introduced in the House hopper on February 5, 2020 and had its first reading on February 18, 2020.<sup>41</sup> The second reading took place on February 19, 2020.<sup>42</sup>

**Prepared by:** *Lauren Boffill*

---

<sup>36</sup> Community Justice Project, *The Cost of Complicity, A Fiscal Impact Analysis of Immigration Detainers in Miami-Dade County, Florida*, <https://static1.squarespace.com/static/54179ca4e4b0b0c7bc710d3d/t/5a77a431f9619a31bd5b411a/1517790261405/The+Cost+of+Complicity.pdf>.

<sup>37</sup> Ricardo B. Braziell, *The crackdown on sanctuary cities gives birth to 'freedom cities,'* NBC NEWS (Sep. 15, 2018, 8:08 A.M.), <https://www.nbcnews.com/politics/immigration/crackdown-sanctuary-cities-gives-birth-freedom-cities-n909606>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Jessica M. Vaughan & Bryan Griffith, *Map: Sanctuary Cities, Counties, and States*, CENTER FOR IMMIGRATION STUDIES (October 26, 2020), <https://cis.org/Map-Sanctuary-Cities-Counties-and-States>.

<sup>41</sup> H.B. 915 Status Sheet, *supra* note 3.

<sup>42</sup> *Id.*