

Introduced	<u>1/3/17</u>
Public Hearing	<u>1/17/17 - 1/18/17</u>
Council Action	<u>2/6/17</u>
Executive Action	<u>2/9/17</u>
Effective Date	_____

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 1

Bill No. 9 -2017

Introduced by: Calvin Ball and Jennifer Terrasa

AN ACT providing that certain individuals shall take, or refrain from taking, specified actions with respect to the immigration status of specified individuals; prohibiting certain discrimination based on citizenship status; requiring that certain information related to citizenship status be kept confidential; providing a procedure whenever specified provisions may be preempted by other law; requiring specified officials to take actions under certain circumstances; and generally relating to human rights in Howard County.

Introduced and read first time January 3, 2017. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on January 17-18, 2017.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on February 6 2017 and Passed , Passed with amendments , Failed .

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 9th day of February 2017 at 3 a.m./p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved by the County Executive Feb 9th, 2017

Alan H. Kittleman
Alan H. Kittleman, County Executive

Vetoes

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, Howard County is comprised of immigrants from throughout the world who contribute to
2 our community's social vitality, cultural richness, and economic strength; and

3 **WHEREAS**, Howard County has a strong tradition of leadership on issues of human rights, respecting
4 the rights of and providing equal services to all individuals, regardless of race, ethnicity, or
5 immigration status; and

6 ~~**WHEREAS**, the recent national political climate has galvanized support for xenophobic, Islamophobic,
7 and racist sentiments within certain portions of the population, resulting in increased incidents of
8 hate speech and violence; and~~

9 ~~**WHEREAS**, unfortunate statements made by our nation's President elect have bolstered such dangerous
10 sentiments and caused many residents throughout our country and within Howard County to fear
11 for their personal safety and the loss of civil liberties; and~~

12 **WHEREAS**, the Howard County Council wishes to ensure that all residents of Howard County,
13 regardless of nationality or citizenship, shall have fair and equal access to County benefits,
14 opportunities, and services; and

15 **WHEREAS**, we must act now and always to uphold our commitment to promote diversity, inclusion, and
16 equality and to be a community free of discrimination, intimidation, xenophobia, prejudice,
17 bigotry, Islamophobia, anti-Semitism, and other forms of hate; and

18 **WHEREAS**, the Howard County Council wishes to affirm that our commitment by declaring Howard
19 County a sanctuary county not to discriminate on the basis of immigration status;

20
21 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard County*
22 *Code is amended as follows:*

23 *By adding:*

1 *Title 12 - Health and social services.*

2 *Subtitle 21 - Rights of non-U.S. citizens*

3
4 **Title 12 - Health and social services.**

5 **SUBTITLE 21 - RIGHTS OF NON-U.S. CITIZENS**

6
7 **12.2100. DEFINITIONS.**

8 (A) IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 (B) (1) *EMPLOYEE* MEANS AN INDIVIDUAL WHO IS CONSIDERED TO BE AN EMPLOYEE UNDER
10 THE HOWARD COUNTY MERIT SYSTEM.

11 (2) *EMPLOYEE* INCLUDES, BUT IS NOT LIMITED TO:

12 (I) AN OFFICER OF THE HOWARD COUNTY POLICE DEPARTMENT; AND

13 (II) AN ELECTED OR APPOINTED OFFICIAL.

14 (C) EXISTING AGREEMENT MEANS AN EXECUTED WRITTEN AGREEMENT IN EFFECT ON THE
15 EFFECTIVE DATE OF THIS BILL.

16 (D) (1) *IMMIGRATION ENFORCEMENT* MEANS A UNIT OF THE FEDERAL GOVERNMENT THAT
17 ENFORCES IMMIGRATION LAWS.

18 (2) *IMMIGRATION ENFORCEMENT* INCLUDES, BUT IS NOT LIMITED TO, THE UNITED STATES
19 DEPARTMENT OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT.

20 **12.2101. FEDERAL OR STATE PREEMPTION OR CONFLICTS.**

21 (A) A PROVISION OF THIS SUBTITLE SHALL NOT APPLY WHENEVER THE PROVISION CONFLICTS
22 WITH STATE OR FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING AGREEMENT BETWEEN THE
23 COUNTY AND A FEDERAL, STATE, OR LOCAL AGENCY.

24 (B) THIS SUBTITLE DOES NOT PROHIBIT THE HOWARD COUNTY POLICE DEPARTMENT FROM:

25 (1) INVESTIGATING OR ARRESTING VIOLATORS OF THE CRIMINAL LAW; OR

26 (2) ASSISTING A FEDERAL AGENCY WITH INVESTIGATIONS OR ARRESTS RELATING TO
27 GANG ACTIVITY, CRIMINAL ACTIVITY-AND, OR SUSPECTED CRIMINAL ACTIVITY, OTHER THAN
28 VIOLATIONS OF THE IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES.

1 (3) PARTICIPATING IN TASK FORCES WITH OTHER JURISDICTIONS TO INVESTIGATE,
2 ENFORCE, AND PROSECUTE CRIMINAL ACTIVITY, EVEN IF THE TASK FORCE INCLUDES IMMIGRATION
3 ENFORCEMENT.

4 (C) THIS SUBTITLE DOES NOT PROHIBIT DISCLOSURE OF INFORMATION REGARDING CITIZENSHIP
5 OR IMMIGRATION STATUS IF THE DISCLOSURE IS:

6 (1) REQUIRED OR AUTHORIZED BY COUNTY, STATE, OR FEDERAL LAW,
7 INTERNATIONAL TREATY, OR BY AN EXISTING AGREEMENT BETWEEN THE COUNTY AND A FEDERAL,
8 STATE OR LOCAL AGENCY;

9 (2) REQUIRED UNDER SECTION 23-1405 OF THE ALCOHOLIC BEVERAGE ARTICLE OF
10 THE MARYLAND CODE;

11 (3) AUTHORIZED IN WRITING BY THE SUBJECT OF THE INFORMATION; OR

12 (4) MADE TO THE UNITED STATES DEPARTMENT OF STATE IN CONNECTION WITH AN
13 APPLICATION FOR A UNITED STATES PASSPORT.

14 **12.2102. No ENFORCEMENT OF IMMIGRATION LAWS.**

15 (A) IN THE PERFORMANCE OF OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT ENGAGE IN THE
16 ENFORCEMENT OF THE IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES AND SHALL NOT
17 ASSIST IMMIGRATION ENFORCEMENT IN THE INVESTIGATION OR ARREST OF A PERSON FOR A CIVIL OR
18 CRIMINAL VIOLATION OF THE IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES, EXCEPT AS
19 REQUIRED OR AUTHORIZED BY STATE OR FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING
20 AGREEMENT BETWEEN THE COUNTY AND A FEDERAL, STATE OR LOCAL AGENCY

21 (B) IN THE PERFORMANCE OF OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT ASSIST
22 IMMIGRATION ENFORCEMENT IN THE COLLECTION OF INFORMATION ABOUT ANY PERSON, EXCEPT AS
23 REQUIRED OR AUTHORIZED BY STATE OF FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING
24 AGREEMENT BETWEEN THE COUNTY AND A FEDERAL, STATE, OR LOCAL AGENCY.

1 (C) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AN EMPLOYEE MAY
2 COMMUNICATE WITH IMMIGRATION ENFORCEMENT ABOUT ANY PERSON WHO WAS DEPORTED AFTER
3 BEING CONVICTED OF AN AGGRAVATED FELONY AS THAT TERM IS USED IN 8 U.S.C. § 1101.

4 (D) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AN EMPLOYEE MAY
5 COMMUNICATE WITH IMMIGRATION ENFORCEMENT FOR PURPOSES OF COORDINATION AND PROTECTING
6 PUBLIC SAFETY WHEN IMMIGRATION ENFORCEMENT IS OPERATING IN THE COUNTY.

7 **12.2103. No INQUIRIES INTO CITIZENSHIP.**

8 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN THE PERFORMANCE OF
9 OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT ASK ANY PERSON ABOUT:

10 (1) HIS OR HER CITIZENSHIP, NATIONALITY, OR IMMIGRATION STATUS; OR

11 (2) THE CITIZENSHIP OR IMMIGRATION STATUS OF ANOTHER PERSON.

12 (B) THIS SECTION DOES NOT PROHIBIT:

13 (1) THE COLLECTION OF INFORMATION REGARDING CITIZENSHIP STATUS IN CONNECTION
14 WITH THE REGISTRATION OR ATTEMPTED REGISTRATION TO VOTE IN COUNTY ELECTIONS;

15 (2) INQUIRIES REGARDING THE CITIZENSHIP OF APPLICANTS FOR POSITIONS AS SWORN
16 OFFICERS WITH THE HOWARD COUNTY POLICE DEPARTMENT OR THE HOWARD COUNTY
17 DEPARTMENT OF CORRECTIONS;

18 (3) THE COLLECTION OF INFORMATION IN CONNECTION WITH APPLICATIONS FOR UNITED
19 STATES PASSPORTS;

20 (4) INQUIRIES REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS OF EMPLOYEES
21 AND APPLICANTS FOR EMPLOYMENT WITH THE COUNTY AS REQUIRED BY TITLE 8, CHAPTER 12,
22 SUBCHAPTER II, PART VIII, OF THE UNITED STATES CODE; OR

23 (5) INQUIRIES REGARDING CITIZENSHIP OR IMMIGRATION STATUS REQUIRED OR
24 AUTHORIZED BY STATE OR FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING AGREEMENT
25 BETWEEN THE COUNTY AND A FEDERAL, STATE, OR LOCAL AGENCY.

1 **12.2104. DISCRIMINATION BASED ON CITIZENSHIP PROHIBITED.**

2 IN THE PERFORMANCE OF OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT DISCRIMINATE AGAINST
3 ANY PERSON ON THE BASIS OF CITIZENSHIP, NATIONALITY, OR IMMIGRATION STATUS.

4 **12.2105. CONFIDENTIALITY OF INFORMATION ABOUT CITIZENSHIP STATUS.**

5 AN EMPLOYEE SHALL NOT DISCLOSE ANY INFORMATION REGARDING THE CITIZENSHIP,
6 NATIONALITY, OR IMMIGRATION STATUS OF AN INDIVIDUAL TO A THIRD PARTY EXCEPT:

7 (1) AS PROVIDED IN SECTION 12.2101(C) OF THIS SECTION; OR

8 (2) IN THE PERFORMANCE OF OFFICIAL DUTIES.

9 **12.2106. CHANGES IN PRACTICES.**

10 (A) WHENEVER THE COUNTY ATTORNEY LEARNS OF A STATE OR FEDERAL LAW OR
11 INTERNATIONAL TREATY THAT MAY PREEMPT THIS SUBTITLE, THE COUNTY ATTORNEY SHALL ADVISE
12 THE COUNTY COUNCIL AND THE COUNTY EXECUTIVE:

13 (1) ABOUT THE LAW OR TREATY; AND

14 (2) WHETHER THE COUNTY SHOULD CHANGE ANY PRACTICES UNDER OR PROVISIONS OF
15 THIS SUBTITLE.

16 (B) THE COUNTY EXECUTIVE SHALL NOTIFY THE PUBLIC OF ANY CHANGES IN PRACTICES
17 MADE AS A RESULT OF THIS SECTION.

18 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that this Act*
19 *shall become effective 61 days after its enactment.*

20

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on March 6, 2017.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill No. 9-2017

BY: Calvin Ball and
Jennifer Terrasa

Legislative Day No. 2

Date: February 6, 2017

Amendment No. 1

(This amendment clarifies the purpose of the Bill.)

1 On page 2:

- 2
- strike lines 6 through 11 in their entirety.
 - 3 • in line 15, after “commitment” insert “to promote diversity, inclusion, and
 - 4 equality and”
 - 5 • in line 15, after “of” insert “discrimination, intimidation, xenophobia,”
 - 6 • in line 16, after “bigotry,” insert “Islamophobia, anti-Semitism,”
 - 7 • in line 16, after the first “and” insert “other forms of”
 - 8 • in line 17, strike “that” and substitute “our”
 - 9 • in lines 17-18, strike “by declaring Howard County a sanctuary county” and
 - 10 substitute “not to discriminate on the basis of immigration status”.

ADOPTED

FAILED

SIGNATURE

as amended 2/6/17

Jessica Feldman

Amendment 1 to Amendment 1 to Council Bill No. 9-2017

**BY: Calvin Ball and
Jennifer Terrasa**

**Legislative Day No. 2
Date: February 6, 2017**

Amendment No. 1 to Amendment No. 1

(This amendment further clarifies the purpose of the Bill.)

1 On page 1, after line 5 insert:

2 “

3 • in line 16, after “bigotry,” insert “Islamophobia, anti-Semitism,”

4 • in line 16, after the first “and” insert “other forms of”.
5
6

ADOPTED 2/6/17
FAILED
SIGNATURE *Jessica Feldman*

Amendment 1 to Council Bill No. 9-2017

BY: Calvin Ball and
Jennifer Terrasa

Legislative Day No. 2

Date: 2/6/17

Amendment No. 1

(This amendment clarifies the purpose of the Bill.)

1 On page 2:

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- strike lines 6 through 11 in their entirety.
 - in line 15, after “commitment” insert “to promote diversity, inclusion, and equality and”
 - in line 15, after “of” insert “discrimination, intimidation, xenophobia.”
 - in line 17, strike “that” and substitute “our”
 - in lines 17-18, strike “by declaring Howard County a sanctuary county” and substitute “not to discriminate on the basis of immigration status”.



Amendment 2 to Council Bill No. 9-2017

BY: Calvin Ball and
Jennifer Terrasa

Legislative Day No. 2

Date: 2/6/17

Amendment No. 2

(This amendment defines a term and clarifies that certain actions related to crime are not affected by the Bill.)

1
2
3 On page 3, in line 14, after “(C)” insert:

4 “EXISTING AGREEMENT MEANS AN EXECUTED WRITTEN AGREEMENT IN EFFECT ON
5 THE EFFECTIVE DATE OF THIS BILL.

6 (D)”.

7
8 On page 3, in line 24, after “TO” insert “GANG ACTIVITY,”.

9
10 Also on page 3, in line 25, strike “AND” and substitute “, OR”.

11
12 Also on page 3, after line 26, insert:

13 “(3) PARTICIPATING IN TASK FORCES WITH OTHER JURISDICTIONS TO INVESTIGATE,
14 ENFORCE, AND PROSECUTE CRIMINAL ACTIVITY, EVEN IF THE TASK FORCE INCLUDES IMMIGRATION
15 ENFORCEMENT.”

16
17 On page 4, after line 19, insert:

18 “(C) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AN EMPLOYEE MAY
19 COMMUNICATE WITH IMMIGRATION ENFORCEMENT ABOUT ANY PERSON WHO WAS DEPORTED
20 AFTER BEING CONVICTED OF AN AGGRAVATED FELONY AS THAT TERM IS USED IN 8 U.S.C. § 1101.

21 (D) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AN EMPLOYEE MAY

1 COMMUNICATE WITH IMMIGRATION ENFORCEMENT FOR PURPOSES OF COORDINATION AND
2 PROTECTING PUBLIC SAFETY WHEN IMMIGRATION ENFORCEMENT IS OPERATING IN THE COUNTY.”

ADOPTED 2/6/17
FAILED
SIGNATURE [Signature]

Amendment 3 to Council Bill No. 9-2017

BY: Calvin Ball

Legislative Day No. 2

Date: 2/6/17

Amendment No. 3

(This amendment provides an alternative approach to achieve the intent of the Bill.)

1 On the title page, strike the purpose paragraph in its entirety and substitute:

2 “AN ACT extending equal rights and protections to all individuals; recognizing the
3 importance of accommodating culturally diverse contributions of foreign-born
4 residents to social, academic, religious, cultural, and economic life in Howard
5 County; and generally relating to human rights in Howard County.”.

6
7 On page 1, strike lines 1 through 18 and substitute:

8
9 “WHEREAS, Howard County has a culturally diverse population that includes many foreign-
10 born residents; and

11 WHEREAS, in particular, Hispanic and Latino populations are growing at a steady rate in
12 Howard County and throughout the State of Maryland, rendering issues pertaining to
13 foreign-born populations of ongoing importance to local and State government; and

14 WHEREAS, the Governor’s Commission of Hispanic Affairs Annual Report, 2013, indicates
15 that Maryland’s Hispanic population has increased by over 35% since 2008; and

16 WHEREAS, it is the mission of Howard County to promote public trust in its government
17 agencies and in its enforcement of laws; and

18 WHEREAS, Howard County encourages all individuals to report crimes to County law
19 enforcement officials; and

20 WHEREAS, the United States Constitution vests in the federal government the authority to enact
21 laws governing which foreign-born residents are granted entrance into the United States
22 and determining who among them may stay.”.

1
2 Strike beginning on page 3, line 7 down through page 6 line 5 and substitute:
3

4 “SECTION 12.2100. “DISCRIMINATION” DEFINED.

5 IN THIS SUBTITLE, “DISCRIMINATION” MEANS ANY VERBAL, PHYSICAL, OR NONVERBAL
6 INTERACTION, OR CONDUCT OF A DISCRIMINATORY NATURE, OR CONDUCT BASED UPON AN
7 INDIVIDUAL’S RACE, COLOR, RELIGION, NATIONAL ORIGIN, IMMIGRATION STATUS, OR ABILITY TO
8 SPEAK ENGLISH.

9
10 SECTION 12.2101. PROHIBITED CONDUCT.

11 (A) DISCRIMINATION IS STRICTLY PROHIBITED. A VIOLATION OF THIS PROHIBITION INCLUDES, BUT
12 IS NOT LIMITED TO, ANY OF THE FOLLOWING CIRCUMSTANCES:

13 (1) A COUNTY EMPLOYEE INVESTIGATES OR QUESTIONS AN INDIVIDUAL SOLELY FOR THE
14 PURPOSE OF DETERMINING WHETHER A SUSPECTED CIVIL VIOLATION OF FEDERAL IMMIGRATION
15 LAW EXISTS, UNLESS SUCH INVESTIGATION IS REQUIRED BY LAW OR EXISTING AGREEMENT;

16 (2) A COUNTY EMPLOYEE INQUIRES OF ANY INDIVIDUAL ABOUT THE IMMIGRATION STATUS
17 OF ANY ALLEGED CRIME VICTIM, WITNESS, OR OTHER INDIVIDUAL WHO CONTACTS ANY COUNTY
18 EMPLOYEE SEEKING ASSISTANCE, UNLESS SUCH INQUIRY IS REQUIRED BY LAW OR EXISTING
19 AGREEMENT;

20 (3) A COUNTY EMPLOYEE CONDITIONS THE PROVISION OF COUNTY SERVICES OR COUNTY
21 BENEFITS SOLELY ON THE IMMIGRATION STATUS OF AN INDIVIDUAL SEEKING THOSE SERVICES OR
22 BENEFITS, UNLESS SUCH CONDITIONS ARE LAWFULLY IMPOSED BY LAW OR EXISTING AGREEMENT;
23 AND

24 (4) A COUNTY EMPLOYEE INQUIRES WITH IMMIGRATION AND CUSTOMS ENFORCEMENT
25 (“ICE”) ABOUT AN INDIVIDUAL’S IMMIGRATION STATUS, SUBJECT TO FEDERAL LAW.

26 (B) NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO PROHIBIT A COUNTY EMPLOYEE FROM:

27 (1) PARTICIPATING IN TASK FORCE ACTIVITIES WITH FEDERAL LAW ENFORCEMENT
28 AUTHORITIES;

29 (2) INVESTIGATING VIOLATIONS OF LAW, AS LONG AS THE INVESTIGATION IS NOT FOR THE
30 PURPOSE OF FURTHERING AN INVESTIGATION BASED ON AN ALLEGED CIVIL VIOLATION OF FEDERAL
31 IMMIGRATION LAW, UNLESS REQUIRED BY EXISTING AGREEMENT;

32 (3) COOPERATING WITH FEDERAL IMMIGRATION AUTHORITIES WHO HAVE ESTABLISHED
33 THAT PROBABLE CAUSE EXISTS TO APPREHEND AN UNDOCUMENTED FOREIGN-BORN RESIDENT WHO

1 HAS ENGAGED IN CRIMINAL ACTIVITY;

2 (4) PURSUING COUNTY-SANCTIONED INITIATIVES OR PROGRAMS WHEN INQUIRY INTO AN
3 INDIVIDUAL'S IMMIGRATION STATUS IS REQUIRED FOR THE SOLE PURPOSE OF ESTABLISHING
4 ELIGIBILITY FOR SERVICES OR BENEFITS TO THE INDIVIDUAL AS LONG AS THE INFORMATION ABOUT
5 THE INDIVIDUAL'S IMMIGRATION STATUS IS NOT USED FOR ANY PURPOSE RELATED TO
6 IMMIGRATION ENFORCEMENT ACTIVITIES; OR

7 (5) CONSIDERING AN INDIVIDUAL'S RACE, COLOR, RELIGION, NATIONAL ORIGIN,
8 IMMIGRATION STATUS, OR ABILITY TO SPEAK ENGLISH IF, AND ONLY IF, IT IS REQUIRED BY LAW FOR
9 COUNTY EMPLOYMENT OR TO RECEIVE A PARTICULAR SERVICE OR BENEFIT.

10 (C) INFORMATION ABOUT AN INDIVIDUAL'S IMMIGRATION STATUS SHALL NOT BE RETAINED OR
11 STORED IN ANY PUBLIC RECORD OR DATABASE, SUBJECT TO FEDERAL LAW OR UNLESS IN
12 FURTHERANCE OF A COUNTY-SANCTIONED INITIATIVE OR PROGRAM REQUIRED BY LAW, AND IN
13 THAT CASE SHALL BE KEPT CONFIDENTIAL FROM ANYONE NOT REQUIRED BY LAW TO HAVE THE
14 INFORMATION.

15
16 SECTION 12.2102. PENALTY.

17 AN EMPLOYEE WHO VIOLATES THIS SUBTITLE SHALL BE SANCTIONED IN ACCORDANCE WITH
18 THE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM AND APPLICABLE LAW.

19
20 SECTION 12.2103. OTHER RIGHTS OR PRIVILEGES.

21 THE PROVISIONS OF THIS SUBTITLE SHALL NOT PRECLUDE ANY PERSON FROM EXERCISING
22 ANY RIGHTS OR PRIVILEGES GRANTED BY ANY LAW."
23

ADOPTED _____
FAILED *not introduced*
SIGNATURE *Jessica Feldman*

1 **WHEREAS**, Howard County is comprised of immigrants from throughout the world who contribute to
2 our community's social vitality, cultural richness, and economic strength; and

3 **WHEREAS**, Howard County has a strong tradition of leadership on issues of human rights, respecting
4 the rights of and providing equal services to all individuals, regardless of race, ethnicity, or
5 immigration status; and

6 **WHEREAS**, the recent national political climate has galvanized support for xenophobic, Islamophobic,
7 and racist sentiments within certain portions of the population, resulting in increased incidents of
8 hate speech and violence; and

9 **WHEREAS**, unfortunate statements made by our nation's President-elect have bolstered such dangerous
10 sentiments and caused many residents throughout our country and within Howard County to fear
11 for their personal safety and the loss of civil liberties; and

12 **WHEREAS**, the Howard County Council wishes to ensure that all residents of Howard County,
13 regardless of nationality or citizenship, shall have fair and equal access to County benefits,
14 opportunities, and services; and

15 **WHEREAS**, we must act now and always to uphold our commitment to be a community free of
16 prejudice, bigotry, and hate; and

17 **WHEREAS**, the Howard County Council wishes to affirm that commitment by declaring Howard
18 County a sanctuary county;

19

20 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard County*

21 *Code is amended as follows:*

22 *By adding:*



1 *Title 12 - Health and social services.*

2 *Subtitle 21 - Rights of non-U.S. citizens*

3
4 **Title 12 - Health and social services.**

5 **SUBTITLE 21 - RIGHTS OF NON-U.S. CITIZENS**

6
7 **12.2100. DEFINITIONS.**

8 (A) IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 (B) (1) *EMPLOYEE* MEANS AN INDIVIDUAL WHO IS CONSIDERED TO BE AN EMPLOYEE UNDER
10 THE HOWARD COUNTY MERIT SYSTEM.

11 (2) *EMPLOYEE* INCLUDES, BUT IS NOT LIMITED TO:

12 (I) AN OFFICER OF THE HOWARD COUNTY POLICE DEPARTMENT; AND

13 (II) AN ELECTED OR APPOINTED OFFICIAL.

14 (C) (1) *IMMIGRATION ENFORCEMENT* MEANS A UNIT OF THE FEDERAL GOVERNMENT THAT
15 ENFORCES IMMIGRATION LAWS.

16 (2) *IMMIGRATION ENFORCEMENT* INCLUDES, BUT IS NOT LIMITED TO, THE UNITED STATES
17 DEPARTMENT OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT.

18 **12.2101. FEDERAL OR STATE PREEMPTION OR CONFLICTS.**

19 (A) A PROVISION OF THIS SUBTITLE SHALL NOT APPLY WHENEVER THE PROVISION CONFLICTS
20 WITH STATE OR FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING AGREEMENT BETWEEN THE
21 COUNTY AND A FEDERAL, STATE, OR LOCAL AGENCY.

22 (B) THIS SUBTITLE DOES NOT PROHIBIT THE HOWARD COUNTY POLICE DEPARTMENT FROM:

23 (1) INVESTIGATING OR ARRESTING VIOLATORS OF THE CRIMINAL LAW; OR

24 (2) ASSISTING A FEDERAL AGENCY WITH INVESTIGATIONS OR ARRESTS RELATING TO
25 CRIMINAL ACTIVITY AND SUSPECTED CRIMINAL ACTIVITY, OTHER THAN VIOLATIONS OF THE
26 IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES.

27 (C) THIS SUBTITLE DOES NOT PROHIBIT DISCLOSURE OF INFORMATION REGARDING CITIZENSHIP
28 OR IMMIGRATION STATUS IF THE DISCLOSURE IS:

1 (1) REQUIRED OR AUTHORIZED BY COUNTY, STATE, OR FEDERAL LAW,
2 INTERNATIONAL TREATY, OR BY AN EXISTING AGREEMENT BETWEEN THE COUNTY AND A FEDERAL,
3 STATE OR LOCAL AGENCY;

4 (2) REQUIRED UNDER SECTION 23-1405 OF THE ALCOHOLIC BEVERAGE ARTICLE OF
5 THE MARYLAND CODE;

6 (2) AUTHORIZED IN WRITING BY THE SUBJECT OF THE INFORMATION; OR

7 (3) MADE TO THE UNITED STATES DEPARTMENT OF STATE IN CONNECTION WITH AN
8 APPLICATION FOR A UNITED STATES PASSPORT.

9 **12.2102. NO ENFORCEMENT OF IMMIGRATION LAWS.**

10 (A) IN THE PERFORMANCE OF OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT ENGAGE IN THE
11 ENFORCEMENT OF THE IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES AND SHALL NOT
12 ASSIST IMMIGRATION ENFORCEMENT IN THE INVESTIGATION OR ARREST OF A PERSON FOR A CIVIL OR
13 CRIMINAL VIOLATION OF THE IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES, EXCEPT AS
14 REQUIRED OR AUTHORIZED BY STATE OR FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING
15 AGREEMENT BETWEEN THE COUNTY AND A FEDERAL, STATE OR LOCAL AGENCY

16 (B) IN THE PERFORMANCE OF OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT ASSIST IMMIGRATION
17 ENFORCEMENT IN THE COLLECTION OF INFORMATION ABOUT ANY PERSON, EXCEPT AS REQUIRED OR
18 AUTHORIZED BY STATE OF FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING AGREEMENT
19 BETWEEN THE COUNTY AND A FEDERAL, STATE, OR LOCAL AGENCY.

20 **12.2103. NO INQUIRIES INTO CITIZENSHIP.**

21 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN THE PERFORMANCE OF
22 OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT ASK ANY PERSON ABOUT:

23 (1) HIS OR HER CITIZENSHIP, NATIONALITY, OR IMMIGRATION STATUS; OR

24 (2) THE CITIZENSHIP OR IMMIGRATION STATUS OF ANOTHER PERSON.

25 (B) THIS SECTION DOES NOT PROHIBIT:

1 (1) THE COLLECTION OF INFORMATION REGARDING CITIZENSHIP STATUS IN CONNECTION
2 WITH THE REGISTRATION OR ATTEMPTED REGISTRATION TO VOTE IN COUNTY ELECTIONS;

3 (2) INQUIRIES REGARDING THE CITIZENSHIP OF APPLICANTS FOR POSITIONS AS SWORN
4 OFFICERS WITH THE HOWARD COUNTY POLICE DEPARTMENT OR THE HOWARD COUNTY
5 DEPARTMENT OF CORRECTIONS;

6 (3) THE COLLECTION OF INFORMATION IN CONNECTION WITH APPLICATIONS FOR UNITED
7 STATES PASSPORTS;

8 (4) INQUIRIES REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS OF EMPLOYEES
9 AND APPLICANTS FOR EMPLOYMENT WITH THE COUNTY AS REQUIRED BY TITLE 8, CHAPTER 12,
10 SUBCHAPTER II, PART VIII, OF THE UNITED STATES CODE; OR

11 (5) INQUIRIES REGARDING CITIZENSHIP OR IMMIGRATION STATUS REQUIRED OR
12 AUTHORIZED BY STATE OR FEDERAL LAW, INTERNATIONAL TREATY, OR AN EXISTING AGREEMENT
13 BETWEEN THE COUNTY AND A FEDERAL, STATE, OR LOCAL AGENCY.

14 **12.2104. DISCRIMINATION BASED ON CITIZENSHIP PROHIBITED.**

15 IN THE PERFORMANCE OF OFFICIAL DUTIES, AN EMPLOYEE SHALL NOT DISCRIMINATE AGAINST
16 ANY PERSON ON THE BASIS OF CITIZENSHIP, NATIONALITY, OR IMMIGRATION STATUS.

17 **12.2105. CONFIDENTIALITY OF INFORMATION ABOUT CITIZENSHIP STATUS.**

18 AN EMPLOYEE SHALL NOT DISCLOSE ANY INFORMATION REGARDING THE CITIZENSHIP,
19 NATIONALITY, OR IMMIGRATION STATUS OF AN INDIVIDUAL TO A THIRD PARTY EXCEPT:

20 (1) AS PROVIDED IN SECTION 12.2101(C) OF THIS SECTION; OR

21 (2) IN THE PERFORMANCE OF OFFICIAL DUTIES.

22 **12.2106. CHANGES IN PRACTICES.**

23 (A) WHENEVER THE COUNTY ATTORNEY LEARNS OF A STATE OR FEDERAL LAW OR
24 INTERNATIONAL TREATY THAT MAY PREEMPT THIS SUBTITLE, THE COUNTY ATTORNEY SHALL ADVISE
25 THE COUNTY COUNCIL AND THE COUNTY EXECUTIVE:

1 (1) ABOUT THE LAW OR TREATY; AND

2 (2) WHETHER THE COUNTY SHOULD CHANGE ANY PRACTICES UNDER OR PROVISIONS OF
3 THIS SUBTITLE.

4 (B) THE COUNTY EXECUTIVE SHALL NOTIFY THE PUBLIC OF ANY CHANGES IN PRACTICES
5 MADE AS A RESULT OF THIS SECTION.

6 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that this Act*
7 *shall become effective 61 days after its enactment.*

8





HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013

Allan H. Kittleman
Howard County Executive
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www.howardcountymd.gov
FAX 410-313-3051
TDD 410-313-2323

February 9, 2017

The Honorable Jon Weinstein, Chairperson
Howard County Council
3430 Courthouse Drive
Ellicott City, Maryland 21043

Re: Howard County Council Bill No. 9-2017

Dear Chairperson Weinstein:

In accordance with Section 209(g) of the Howard County Charter, I have today vetoed Howard County Council Bill No. 9-2017 ("CB9"). As a lifelong resident of Howard County, I know first-hand that we are an inclusive and diverse county. I was raised by a man who fought for civil rights and who taught me to respect everyone. And I know that employees in county government treat everyone who lives and visits the county with respect and dignity.

Throughout this process, I have said that CB 9, which the County Council amended and passed on Monday, February 6, 2017, is a bad solution to a problem that does not exist in Howard County. It is little more than a hollow political statement. It unnecessarily divided our foreign-born community and caused rifts in our county. The bill offers a false sense of security to undocumented immigrants, compromises public safety efforts and puts us at risk of losing critical federal funding for community services and law enforcement.

For these reasons, I have vetoed CB9.

It was irresponsible to hastily file this legislation. Responsible leadership calls for due diligence. Unfortunately, in this case, there was none. I agree with you when you said, when voting against this bill, that this issue deserved a thorough, inclusive and deliberative process prior to its introduction.

I appreciate you and Council member Fox for your bipartisan opposition to this bill.

If the sponsors had reached out to key stakeholders prior to filing it, they would have learned this was unnecessary legislation. They would have heard from the Police Department, other government agencies, and organizations supporting immigrants that in Howard County, we do not have a problem with this issue. They would have learned why codifying this language *creates* problems. And they would have understood why no other county in Maryland nor Baltimore City has passed a similar law.

Instead, Council members Ball and Terrasa filed this legislation without consulting and without notice to key stakeholders. They filed legislation that unfairly and inaccurately created the perception that there is a problem in Howard County with the way our Police Department and county employees interact with our foreign-born population.

Let me be clear, nothing could be further from the truth. There are no known instances – not a single one – in which a member of our community has indicated they were harassed or mistreated based on their immigration status by the Police Department or county government employees.

The mission of our Police Department -- to ensure that everyone who lives, works or visits Howard County is safe – has never changed. Their focus is on protecting our community and not on enforcing federal immigration law. In fact, they have gone above and beyond to work with people of all nationalities – creating partnerships with FIRN, HopeWorks and others so that our police officers have adequate training and understanding of different cultures and religions.

We've hired multicultural liaisons to help with outreach and to strengthen relationships. This dedication to inclusiveness runs through the fabric of county government. And we have a county government that represents our community's diversity, working every day to make sure our services are comprehensive and accessible. To imply otherwise is insulting.

Our priorities and policies are driven by shared values of inclusion, collaboration and opportunity. These are the guiding principles that led to efforts like our #OneHoward campaign and Congressman Elijah Cummings' Stand Up, Speak Up Howard. In the face of acts of hatred and bigotry, responsible leaders on the local, state and federal level have engaged the community, promoted dialogue and sought solutions that are impactful, without causing greater anxiety in the community.

At the end of the day, we know we are a stronger, more prosperous county because we welcome new people, new ideas and new opportunities.

We recognize that local government can and should continue its efforts to strengthen interactions with the foreign-born community. And so we will continue to work with FIRN, HopeWorks, Maryland Legal Aid and engage our law enforcement partners – the State's Attorney and the Sheriff – to strengthen our joint outreach and training efforts.

I know there is some uncertainty right now on the federal level that has caused concern. But there should be no uncertainty in Howard County. My administration will continue to champion and preserve our values and treat every resident with dignity and respect. My promise, as County Executive, is that Howard County will continue to be a welcoming and inclusive community where we celebrate our diversity.

Sincerely,



Allan H. Kittleman
County Executive

cc: Howard County Council
Jessica Feldmark, Council Administrator
Gary W. Kuc, County Solicitor

Amendment 1 to Amendment 1 to Council Bill No. 9-2017

**BY: Calvin Ball and
Jennifer Terrasa**

**Legislative Day No. 2
Date: February 6, 2017**

Amendment No. 1 to Amendment No. 1

(This amendment further clarifies the purpose of the Bill.)

1 On page 1, after line 5 insert:

2 “

3 • in line 16, after “bigotry,” insert “Islamophobia, anti-Semitism,”

4 • in line 16, after the first “and” insert “other forms of””.

5

6

Amendment 1 to Council Bill No. 9-2017

BY: Calvin Ball and
Jennifer Terrasa

Legislative Day No. 2

Date: 2/6/17

Amendment No. 1

(This amendment clarifies the purpose of the Bill.)

1 On page 2:

- 2
- strike lines 6 through 11 in their entirety.
 - 3 • in line 15, after “commitment” insert “to promote diversity, inclusion, and
4 equality and”
 - 5 • in line 15, after “of” insert “discrimination, intimidation, xenophobia.”
 - 6 • in line 17, strike “that” and substitute “our”
 - 7 • in lines 17-18, strike “by declaring Howard County a sanctuary county” and
8 substitute “not to discriminate on the basis of immigration status”.

Amendment 2 to Council Bill No. 9-2017

BY: Calvin Ball and
Jennifer Terrasa

Legislative Day No. 2

Date: 2/6/17

Amendment No. 2

(This amendment defines a term and clarifies that certain actions related to crime are not affected by the Bill.)

1
2
3 On page 3, in line 14, after "(C)" insert:

4 "EXISTING AGREEMENT MEANS AN EXECUTED WRITTEN AGREEMENT IN EFFECT ON
5 THE EFFECTIVE DATE OF THIS BILL.

6 (D)".

7
8 On page 3, in line 24, after "TO" insert "GANG ACTIVITY,".

9
10 Also on page 3, in line 25, strike "AND" and substitute ", OR".

11
12 Also on page 3, after line 26, insert:

13 "(3) PARTICIPATING IN TASK FORCES WITH OTHER JURISDICTIONS TO INVESTIGATE,
14 ENFORCE, AND PROSECUTE CRIMINAL ACTIVITY, EVEN IF THE TASK FORCE INCLUDES IMMIGRATION
15 ENFORCEMENT."

16
17 On page 4, after line 19, insert:

18 "(C) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AN EMPLOYEE MAY
19 COMMUNICATE WITH IMMIGRATION ENFORCEMENT ABOUT ANY PERSON WHO WAS DEPORTED
20 AFTER BEING CONVICTED OF AN AGGRAVATED FELONY AS THAT TERM IS USED IN 8 U.S.C. § 1101.

21 (D) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AN EMPLOYEE MAY

1 COMMUNICATE WITH IMMIGRATION ENFORCEMENT FOR PURPOSES OF COORDINATION AND
2 PROTECTING PUBLIC SAFETY WHEN IMMIGRATION ENFORCEMENT IS OPERATING IN THE COUNTY.”

Amendment 3 to Council Bill No. 9-2017

BY: Calvin Ball

Legislative Day No. 2

Date: 2/6/17

Amendment No. 3

(This amendment provides an alternative approach to achieve the intent of the Bill.)

1 On the title page, strike the purpose paragraph in its entirety and substitute:

2 “AN ACT extending equal rights and protections to all individuals; recognizing the
3 importance of accommodating culturally diverse contributions of foreign-born
4 residents to social, academic, religious, cultural, and economic life in Howard
5 County; and generally relating to human rights in Howard County.”.

6
7 On page 1, strike lines 1 through 18 and substitute:

8
9 “WHEREAS, Howard County has a culturally diverse population that includes many foreign-
10 born residents; and

11 WHEREAS, in particular, Hispanic and Latino populations are growing at a steady rate in
12 Howard County and throughout the State of Maryland, rendering issues pertaining to
13 foreign-born populations of ongoing importance to local and State government; and

14 WHEREAS, the Governor’s Commission of Hispanic Affairs Annual Report, 2013, indicates
15 that Maryland’s Hispanic population has increased by over 35% since 2008; and

16 WHEREAS, it is the mission of Howard County to promote public trust in its government
17 agencies and in its enforcement of laws; and

18 WHEREAS, Howard County encourages all individuals to report crimes to County law
19 enforcement officials; and

20 WHEREAS, the United States Constitution vests in the federal government the authority to enact
21 laws governing which foreign-born residents are granted entrance into the United States
22 and determining who among them may stay.”.

1
2 Strike beginning on page 3, line 7 down through page 6 line 5 and substitute:
3

4 “SECTION 12.2100. “DISCRIMINATION” DEFINED.

5 IN THIS SUBTITLE, “DISCRIMINATION” MEANS ANY VERBAL, PHYSICAL, OR NONVERBAL
6 INTERACTION, OR CONDUCT OF A DISCRIMINATORY NATURE, OR CONDUCT BASED UPON AN
7 INDIVIDUAL’S RACE, COLOR, RELIGION, NATIONAL ORIGIN, IMMIGRATION STATUS, OR ABILITY TO
8 SPEAK ENGLISH.

9
10 SECTION 12.2101. PROHIBITED CONDUCT.

11 (A) DISCRIMINATION IS STRICTLY PROHIBITED. A VIOLATION OF THIS PROHIBITION INCLUDES, BUT
12 IS NOT LIMITED TO, ANY OF THE FOLLOWING CIRCUMSTANCES:

13 (1) A COUNTY EMPLOYEE INVESTIGATES OR QUESTIONS AN INDIVIDUAL SOLELY FOR THE
14 PURPOSE OF DETERMINING WHETHER A SUSPECTED CIVIL VIOLATION OF FEDERAL IMMIGRATION
15 LAW EXISTS, UNLESS SUCH INVESTIGATION IS REQUIRED BY LAW OR EXISTING AGREEMENT;

16 (2) A COUNTY EMPLOYEE INQUIRES OF ANY INDIVIDUAL ABOUT THE IMMIGRATION STATUS
17 OF ANY ALLEGED CRIME VICTIM, WITNESS, OR OTHER INDIVIDUAL WHO CONTACTS ANY COUNTY
18 EMPLOYEE SEEKING ASSISTANCE, UNLESS SUCH INQUIRY IS REQUIRED BY LAW OR EXISTING
19 AGREEMENT;

20 (3) A COUNTY EMPLOYEE CONDITIONS THE PROVISION OF COUNTY SERVICES OR COUNTY
21 BENEFITS SOLELY ON THE IMMIGRATION STATUS OF AN INDIVIDUAL SEEKING THOSE SERVICES OR
22 BENEFITS, UNLESS SUCH CONDITIONS ARE LAWFULLY IMPOSED BY LAW OR EXISTING AGREEMENT;
23 AND

24 (4) A COUNTY EMPLOYEE INQUIRES WITH IMMIGRATION AND CUSTOMS ENFORCEMENT
25 (“ICE”) ABOUT AN INDIVIDUAL’S IMMIGRATION STATUS, SUBJECT TO FEDERAL LAW.

26 (B) NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO PROHIBIT A COUNTY EMPLOYEE FROM:

27 (1) PARTICIPATING IN TASK FORCE ACTIVITIES WITH FEDERAL LAW ENFORCEMENT
28 AUTHORITIES;

29 (2) INVESTIGATING VIOLATIONS OF LAW, AS LONG AS THE INVESTIGATION IS NOT FOR THE
30 PURPOSE OF FURTHERING AN INVESTIGATION BASED ON AN ALLEGED CIVIL VIOLATION OF FEDERAL
31 IMMIGRATION LAW, UNLESS REQUIRED BY EXISTING AGREEMENT;

32 (3) COOPERATING WITH FEDERAL IMMIGRATION AUTHORITIES WHO HAVE ESTABLISHED
33 THAT PROBABLE CAUSE EXISTS TO APPREHEND AN UNDOCUMENTED FOREIGN-BORN RESIDENT WHO

1 HAS ENGAGED IN CRIMINAL ACTIVITY;

2 (4) PURSUING COUNTY-SANCTIONED INITIATIVES OR PROGRAMS WHEN INQUIRY INTO AN
3 INDIVIDUAL'S IMMIGRATION STATUS IS REQUIRED FOR THE SOLE PURPOSE OF ESTABLISHING
4 ELIGIBILITY FOR SERVICES OR BENEFITS TO THE INDIVIDUAL AS LONG AS THE INFORMATION ABOUT
5 THE INDIVIDUAL'S IMMIGRATION STATUS IS NOT USED FOR ANY PURPOSE RELATED TO
6 IMMIGRATION ENFORCEMENT ACTIVITIES; OR

7 (5) CONSIDERING AN INDIVIDUAL'S RACE, COLOR, RELIGION, NATIONAL ORIGIN,
8 IMMIGRATION STATUS, OR ABILITY TO SPEAK ENGLISH IF, AND ONLY IF, IT IS REQUIRED BY LAW FOR
9 COUNTY EMPLOYMENT OR TO RECEIVE A PARTICULAR SERVICE OR BENEFIT.

10 (C) INFORMATION ABOUT AN INDIVIDUAL'S IMMIGRATION STATUS SHALL NOT BE RETAINED OR
11 STORED IN ANY PUBLIC RECORD OR DATABASE, SUBJECT TO FEDERAL LAW OR UNLESS IN
12 FURTHERANCE OF A COUNTY-SANCTIONED INITIATIVE OR PROGRAM REQUIRED BY LAW, AND IN
13 THAT CASE SHALL BE KEPT CONFIDENTIAL FROM ANYONE NOT REQUIRED BY LAW TO HAVE THE
14 INFORMATION.

15
16 SECTION 12.2102. PENALTY.

17 AN EMPLOYEE WHO VIOLATES THIS SUBTITLE SHALL BE SANCTIONED IN ACCORDANCE WITH
18 THE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM AND APPLICABLE LAW.

19
20 SECTION 12.2103. OTHER RIGHTS OR PRIVILEGES.

21 THE PROVISIONS OF THIS SUBTITLE SHALL NOT PRECLUDE ANY PERSON FROM EXERCISING
22 ANY RIGHTS OR PRIVILEGES GRANTED BY ANY LAW.”.

Reasons we should not support a sanctuary jurisdiction

A Huge Public Safety Problem

Sanctuary jurisdictions are a significant public safety problem throughout the country. There are about 300 jurisdictions have been identified by ICE as having policies that are non-cooperative and obstructs immigration enforcement (as of September 2015).

Over a 19-month period from January 1, 2014, to September 30, 2015, more than 17,000 detainees were rejected by these jurisdictions. Of these, about 11,800 detainees, or 68 percent, were issued for individuals with a **prior criminal history**.

The Department of Justice's Inspector General recently found that some of the sanctuary jurisdictions appear to be violating federal law, and may face debarment from certain federal funding or other consequences.

The sanctuary jurisdictions of Baltimore City, Montgomery County, and Prince George's county have laws, ordinances, regulations, resolutions, policies, or other practices that obstruct immigration enforcement and shield criminals from ICE — either by refusing to or prohibiting agencies from complying with ICE detainers, imposing unreasonable conditions on detainer acceptance, denying ICE access to interview incarcerated aliens, or otherwise impeding communication or information exchanges between their personnel and federal immigration officers.

A detainer is the primary tool used by ICE to gain custody of criminal aliens for deportation. It is a notice to another law enforcement agency that ICE intends to assume custody of an alien and includes information on the alien's previous criminal history, immigration violations, and potential threat to public safety or security.

(Source: Immigration and Customs Enforcement Data)

What is a "Sanctuary"?

Different people and groups may have different definitions of a sanctuary, and there is a spectrum of such policies across the nation. For our purposes, a sanctuary is a jurisdiction that has a law, ordinance, policy, practice, or rule that deliberately obstructs immigration enforcement, restricts interaction with federal immigration agencies, or shields illegal aliens from detection. In addition, federal law includes two key provisions that forbid certain practices: one that forbids policies restricting communication and information sharing (8 U.S.C. Section 1373) and one that forbids harboring illegal aliens or shielding them from detection (8 U.S.C. Section 1324).

Information exchanges. 8 U.S.C. 1373 states:

"a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [federal immigration authorities] information regarding the citizenship or immigration status, lawful or unlawful, of any individual."

A recent report from the Department of Justice's Office of Inspector General (DOJ OIG), requested by Rep. John Culberson (R-Texas), who chairs the appropriations committee in charge of the DOJ budget, determined that sanctuary policies which prohibit local officers from communicating or exchanging

information with ICE are “inconsistent” with federal law. Sanctuary jurisdictions do this by ignoring immigration detainers, which are filed by Immigration and Customs Enforcement (ICE) agents to signal their intent to take custody of aliens for purposes of removal, once state or local justice system proceedings are concluded. Some jurisdictions go further by prohibiting communication to advise or even acknowledge to ICE agents that the alien has been arrested. They also sometimes prevent ICE agents from access to the alien to conduct interviews.

The OIG report investigated the policies of 10 jurisdictions and found that they did indeed limit cooperation with ICE in an improper way:

“Each of the 10 jurisdictions had laws or policies directly related to how those jurisdictions could respond to ICE detainers, and each limited in some way the authority of the jurisdiction to take action with regard to ICE detainers...We also found that the laws and policies in several of the 10 jurisdictions go beyond regulating responses to ICE detainers and also address, in some way, the sharing of information with federal immigration authorities.”

Harboring Aliens in Violation of Law. 8 U.S.C. 1324 states:

“Any person who...knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, ...; encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or engages in any conspiracy to commit any of the preceding acts, or aids or abets the commission of any of the preceding acts, shall be....fined under title 18, imprisoned not more than 5 years, or both...”

Much of the sanctuary movement seems to be centered on shielding from federal action deportable aliens who have been arrested and charged with various crimes. But other jurisdictions have more expansive policies aimed at shielding some or all illegal aliens, including the so-called Dreamers and their families, from enforcement action.

What are the Arguments Made by Sanctuary Advocates?

The arguments have several distinct but interrelated themes:

- Police cooperation with immigration agents erodes trust between immigrants and authorities, and causes immigrants to refrain from reporting crimes;
- We don't want to act as immigration agents;
- We don't get reimbursed for incarceration costs;
- Cooperation is voluntary;
- Detainers must be accompanied by warrants;
- States are sovereign entities that have the right to make their own decisions on immigration.

When examined critically, none of these arguments holds water, except for the one having to do with warrants, and that argument holds only to a certain degree, which I will address further below.

Police cooperation compromises community trust and safety. One of the most common reasons offered for non-cooperation policies is that they are needed so that immigrants will have no fear of being turned over for deportation when they report crimes. This frequently-heard claim has never been

substantiated, and in fact has been refuted by a number of reputable studies. Not a shred of evidence of a “chilling effect” on immigrant crime reporting when local police cooperate with ICE exists in federal or local government or police data or independent academic research.

It is important to remember that crime reporting can be a problem in any place, and is not confined to any one segment of the population. In fact, most crimes are not reported, regardless of the victim’s immigration status or ethnicity. According to the Bureau of Justice Statistics (BJS), in 2015, only 47 percent of violent victimizations, 55 percent of serious violent victimizations, were reported to police. In 2015, the percentage of property victimizations reported to police was just 35 percent. These rates have been unaffected, either by changes in the level of interaction between local and federal enforcement from 2009-2012 (which coincides with the implementation of the Secure Communities biometric matching program) or by the spread of sanctuary policies since 2014.

Data from BJS show no meaningful differences among ethnic groups in crime reporting. Overall, Hispanics are slightly more likely to report crimes than other groups. Hispanic females, especially, are slightly more likely than white females and more likely than Hispanic and non-Hispanic males to report violent crimes. This is consistent with academic surveys finding Hispanic females to be more trusting of police than other groups.

A multitude of other studies refute the notion that local-federal cooperation in immigration enforcement causes immigrants to refrain from reporting crimes:

- A major study completed in 2009 by researchers from the University of Virginia and the Police Executive Research Forum (PERF) found no decline in crime reporting by Hispanics after the implementation of a local police program to screen offenders for immigration status and to refer illegal aliens to ICE for removal. This examination of Prince William County, Virginia’s 287(g) program is the most comprehensive study to refute the “chilling effect” theory. The study also found that the county’s tough immigration policies likely resulted in a decline in certain violent crimes.
- The most reputable academic survey of immigrants and crime reporting found that by far the most commonly mentioned reason for not reporting a crime was a language barrier (47 percent), followed by cultural differences (22 percent), and a lack of understanding of the U.S. criminal justice system (15 percent) — not fear of being turned over to immigration authorities.
- The academic literature reveals varying attitudes and degrees of trust toward police within and among immigrant communities. Some studies have found that Central Americans may be less trusting than other groups, while others maintain that the most important factor is socio-economic status and feelings of empowerment within a community, rather than the presence or level of immigration enforcement.
- A 2009 study of calls for service in Collier County, FL., found that the implementation of the 287(g) partnership program with ICE enabling local sheriff’s deputies to enforce immigration laws, resulting in significantly more removals of criminal aliens, did not affect patterns of crime reporting in immigrant communities.
- Data from the Boston, Mass., Police Department, one of two initial pilot sites for ICE’s Secure Communities program, show that in the years after the implementation of this program, which ethnic and civil liberties advocates alleged would suppress crime reporting, showed that calls for

service decreased proportionately with crime rates. The precincts with larger immigrant populations had less of a decline in reporting than precincts with fewer immigrants.

- Similarly, several years of data from the Los Angeles Police Department covering the time period of the implementation of Secure Communities and other ICE initiatives that increased arrests of aliens show that the precincts with the highest percentage foreign-born populations do not have lower crime reporting rates than precincts that are majority black, or that have a smaller foreign-born population, or that have an immigrant population that is more white than Hispanic. The crime reporting rate in Los Angeles is most affected by the amount of crime, not by race, ethnicity, or size of the foreign-born population.
- Recent studies based on polling of immigrants about whether they might or might not report crimes in the future based on hypothetical local policies for police interaction with ICE, such as one recent study entitled “Insecure Communities”, by Nik Theodore of the University of Illinois, Chicago, should be considered with great caution, since they measure emotions and predict possible behavior, rather than record and analyze actual behavior of immigrants. Moreover, the Theodore study is particularly flawed because it did not compare crime reporting rates of Latinos with other ethnic groups.

For these reasons, law enforcement agencies across the country have found that the most effective ways to encourage crime reporting by immigrants and all residents are to engage in tried and true initiatives such as community outreach, hiring personnel who speak the languages of the community, establishing anonymous tip lines, and setting up community sub-stations with non-uniform personnel to take inquiries and reports – not by suspending cooperation with federal immigration enforcement efforts. Proposals to increase ICE-local cooperation, such as the Davis-Oliver Act, which was passed by the House Judiciary Committee in 2015, enjoy strong support among law enforcement leaders across the country. These leaders — sheriffs, police, and state agency commanders — routinely and repeatedly express concern over crime problems associated with illegal immigration and routinely and repeatedly express their willingness to assist ICE, and that it is their duty to assist ICE. The National Sheriffs Association and numerous individual sheriffs and police chiefs have endorsed the Davis-Oliver Act.

Instead of pushing sanctuary policies, advocates for immigrants in the community should be stressing that victims and witnesses are never targets for immigration enforcement (unless they, too, are criminals). If immigrant advocates would help disseminate this message, instead of spreading the myth that immigrants have something to fear from interaction with local police, then everyone in the community would be safer. It is important to remember that much of the crime inflicted on aliens comes from other aliens—for instance, coyotes, drug dealers, gangbangers and other career criminals—who prey on their own communities. When this is the case, alien victims and witnesses, significantly including aliens illegally in the United States, have every reason to want them plucked out of their midst by local law enforcement and removed by ICE.

What is more, aliens tend to be very familiar with the workings of immigration law, much more so than the average citizen, because it is in their interest to do so. As such, while they may not be able to cite specific visa categories, they are quite likely to know that immigration law and policy actually contain provisions to protect victims and witnesses from removal actions so that they can provide key information to police and prosecutors. If police officers want to be able to help immigrants who are victimized to take advantage of these programs, they need to have a good working relationship with ICE

– and they also need to be allowed to inquire about immigration status so that they can offer this protection.

Lastly, I should point out that while state and local governments can't point to any credible studies to support their argument that cooperation with ICE diminishes trust levels in ethnic and alien communities, there is plenty of empirical, and powerful anecdotal, evidence which shows the damage done to communities when alien offenders are inappropriately released back to the street, whether by state and local police or by ICE, rather than being detained and removed from the United States for their offenses. There have been so many victims of criminal behavior by illegal aliens that surviving family members of those killed have banded together to draw attention to their plight, and to the danger posed by sanctuary policies. The families of these victims have been steadfastly ignored by law enforcement organizations and governments engaged in sanctuary policies, and they were ignored by the Democratic party during the presidential campaign. (Even before that, **one Democratic representative went so far as to refer to the murder of a young woman by a multiply deported illegal alien felon as "a little thing"**.) But the families of the victims were not ignored by presidential candidate Trump; he embraced them publicly, and they appeared frequently with him on the campaign trail as he promised to address the problem of sanctuaries if elected.

Refusal to act as immigration agents. Much of the controversy surrounding sanctuary policies has to do with state and local law enforcement agencies refusing to honor immigration detainers filed by ICE agents against aliens arrested for criminal offenses, aliens whom the agents have determined to be deportable and intend to take custody of, once state or local criminal justice proceedings are done. The detainer is a notification to the arresting/holding agency of ICE's intention to assume custody.

Many state and local agencies complain that by being asked to honor the detainer, they are being forced to act as surrogate immigration officials. This belies the fact that when ICE agents file detainers against an individual in police custody, they have already made determinations about his alienage and deportability. They are not asking the police either to render that judgment on their own, or to second-guess their decision-making. For this reason, state and local agencies are not being asked to act as immigration agents; they are simply expected to tender to the federal authorities the individual identified in the detainer.

What is more, the reality of sanctuaries is that there are many variations on the theme: a number of jurisdictions make decisions about whether to honor a detainer based on the crimes for which an alien has been charged or convicted. When they do this, they are effectively substituting their judgment for federal statutes which make clear the offenses that render an alien to be deportable, and so it is dishonest and deceptive for such jurisdictions to complain about acting as surrogates. They have already done so—and done it in a way that is contrary to law.

Reimbursement for incarceration costs. Many jurisdictions complain that it costs them hundreds of thousands (sometimes millions) of dollars each year arresting, prosecuting, and incarcerating deportable aliens, or holding them for additional time (up to 48 hours) on an ICE detainer. They charge that, in turn, they get reimbursed for only a portion of those costs, usually via the State Criminal Alien Assistance Program (SCAAP). They ask, then, why they should honor immigration detainers. It is worth observing, though, that the amounts being disbursed are significant. In 2015 more than \$165,342 million was disbursed to state, county, and city law enforcement entities—including to sanctuary cities that thumb

their nose at federal immigration agents and provide no cooperation whatever, or actively impede enforcement efforts.

But putting aside the millions of dollars being disbursed, there are at least three additional, obvious, flaws in this train of logic.

- First, although control of immigration is in fact a federal responsibility—and one which the Obama administration has been notoriously reluctant to embrace—it does not follow that the federal taxpayer should be on the hook for the entire cost of locking up aliens who are arrested and charged with state crimes, especially if state or local policies encourage or tolerate illegal settlement.
- Second, if the complaint of non-cooperating jurisdictions is that the federal government has substantially failed in its job of keeping aliens from illegally crossing the border and in preventing aliens from overstaying their visas, thus resulting in increased numbers of alien criminals and heavier burdens for state and local law enforcement, then how does it follow that the solution is to release these aliens onto the street and back into the community rather than give custody of them over to federal agents to remove them, once the state criminal justice proceedings have concluded? Where is the logic in that?
- Third, many state and local law enforcement agencies report that cooperating in the removal of criminal aliens actually saves the community significant sums of money. As is the case with other offenders, criminal aliens are prone to re-offend (at rates comparable to native-born criminals). When criminal aliens are removed instead of returned to the community, the community is spared the cost of their future crimes and the associated costs of incarceration and supervision, not to mention the pain and trauma of future victims.

The previously-referenced OIG report mentioned ICE's view that, until there is further clarification that cooperation with federal immigration authorities is obligatory, then state and local governments can get away with refusing cooperation on budgetary grounds. Indeed, many of the sanctuary policies specify that no funds may be expended to assist the federal government in immigration enforcement. Yet in some cases, notably Cook County, Illinois, when ICE has offered to repay the cost of any additional time in custody for the criminal alien, the county did not accept the offer, which makes clear that cost was not the real reason for the sanctuary policy.

Cooperation is voluntary. This argument is closely aligned with the prior discussion about detainers, as well as the discussion that follows regarding states' rights. The "cooperation is voluntary" argument suggests that state and local agencies may choose whether or not they cooperate with federal immigration authorities—usually, in relation to ICE and its detainers. The Obama administration has given power to this argument by public pronouncements to this effect from one of its senior ICE officials; pronouncements made, I note, with no legal justifications to support them that I can determine. Moreover, the Priority Enforcement Program (PEP) implemented in November 2014 as part of a large set of executive actions explicitly allows local jurisdictions to ignore ICE attempts to gain custody of a criminal alien in their custody, and allows local jurisdictions to dictate to ICE which criminal aliens will be subject to enforcement.

When considering the validity of the pronouncement that honoring of detainers is voluntary, it is well to keep in mind that the Obama administration made a similar argument about whether or not state and

local governments were obliged to cooperate with the biometric matching that forms the heart of the successful Secure Communities program—an argument it was later forced to admit was untrue and which had no factual basis in the law, although it repeatedly made the assertion until events forced them to backtrack on their prior assertion.

What is more, the suggestion that honoring detainers is voluntary, or in some way optional, defies the ordinary practices, procedures, and expectations of all other federal, state, and local agencies where detainers are concerned. When other agencies file detainers, they fully expect them to be honored. Imagine, if you will, the United States Marshals Service suggesting that a detainer which it files with state or local law enforcement agencies is “voluntary”—it’s unthinkable.

Some have said that the fundamental difference is because immigration detainers are issued by administrative authorities, as opposed to judges. This flies in the face of reality: parole boards are administrative authorities, yet parole officers routinely file detainers to take back into custody parole violators, which detainers are uniformly honored. So, too, with military police authorities who file detainers to take into custody soldiers or sailors who have deserted or are absent without leave, when they are arrested by police? Should these detainers be rejected by state or local governments because, hypothetically, they disagreed with laws under which the offender was convicted and paroled, or with the federal government’s wars in Iraq or Afghanistan? Again, unreasonable.

In any case, questioning the issuing authorities is beyond the purview of state or local officials. Immigration officials who issue detainers (and, in fact, even warrants for the arrest of aliens in removal proceedings) are indeed administrative officials—but so are immigration judges who hear the deportation cases. All of them are the individuals who have been given the authority under the laws passed by Congress and signed into law by various presidents which, under the federal preemption and supremacy doctrines (discussed below), puts them uniquely within the purview of the federal government. That state and local governments like or agree with the statutory scheme is neither here nor there.

Detainers must be accompanied by warrants. Several sanctuary jurisdictions have indicated that they will honor detainers only when accompanied by warrants. The nature of the warrant has not been specified in many jurisdictions, but a few have been clear that what they are looking for is a judicial warrant.

The argument behind this approach is that a detainer, in and of itself, does not reflect the probable cause needed to justify detention and arrest. I believe that this argument is beyond the scope of state or local jurisdictions to assert, because it is not their business to stand behind immigration agents looking over their collective shoulder, rendering legal determinations on the adequacy of their work—such a notion flies in the face of federal supremacy in the matter of.

What is more, federal law very clearly provides for arrest of an alien believed to be illegally in the United States without warrant by a federal officer when “he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest”. Often when immigration agents file detainers with police, sheriffs, and jails, they don’t know how quickly the alien may be released from custody on bond or on order of a presiding judge or magistrate, and time is of the essence. The exigency will depend in large measure on how many hours have elapsed between the initial arrest of the alien by police and when ICE officers

become cognizant of the arrest. If it has been a substantial period of time, they may seek to stay that release with a detainer long enough to be able to follow up afterward with additional charging documents, such as a warrant of arrest in immigration proceedings, and ultimately assume custody.

However, I understand that open borders and migrant advocacy groups have been aggressively litigious in recent years, and that the Obama administration has exhibited a disturbing tendency to leave its “law enforcement partners”, as they are wont to describe state and local enforcement agencies, in the lurch when lawsuits over detainers have been filed.

For this reason, there is the potential for compromise within certain boundaries, where jurisdictions insist on warrants. But to be specific, the warrants I describe are not judicial warrants. There are no judicial warrants available to immigration agents when seeking to arrest an alien and charge him in removal proceedings for being in the United States in violation of law.

The only judicial warrants available to immigration agents would be those obtained to criminally prosecute an alien, for instance if he has unlawfully reentered the United States after deportation, or if he has committed some kind of fraud, or the like. Thus when sanctuary jurisdictions demand a judicial warrant to accompany a detainer filed in civil removal proceedings, they either have no idea what they are insisting upon—or they do, and they know such a demand, being impossible to meet, will obstruct the arrest and deportation of illegal aliens, including aliens who have been arrested, prosecuted, and convicted by state and local authorities for crimes. Of course, this results in such criminals being released back into the community to reoffend, often with horrendous consequences.

When state or local jurisdictions ask ICE to accompany detainers with copies of a warrant, but don't insist on it being a judicial warrant, this is the area in which compromise is possible. The Immigration and Nationality Act provides that “On a warrant issued by the [Secretary of Homeland Security], an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States”.

To be clear, this provision of law refers to a civil warrant issued by federal immigration officers who have been delegated authority flowing from the Secretary. Thus, when jurisdictions seek to protect themselves from the possibility of tort litigation by asking for warrants then, absent exigent circumstances, the prevailing ICE policy should be to accommodate the request by concurrently filing with the detainer an administrative warrant (form I-200) or, if the alien is already a fugitive from deportation proceedings against whom a final order of removal is outstanding, then a warrant of removal (form I-205).

However, it is important to emphasize that decisions about which deportable aliens to take custody of and initiate deportation proceedings against must always be a federal decision and not left to the discretion of state and local governments, which have no constitutional role in that process.

The Suffolk County Solution. The practice of issuing administrative warrants along with the detainer is precisely the solution that has been worked out in Suffolk County on Long Island, New York. In September of 2014, Sheriff Vincent DeMarco was told by county officials that the county would no longer indemnify his department against lawsuits instigated by anti-enforcement advocacy groups if he continued to comply with ICE detainers.

Following the deployment of Secure Communities fingerprint-matching in Suffolk County in February of 2011, ICE had been able to increase the deportations from Suffolk County jails by 60 percent. Suffolk County cases represented nearly 20 percent of the criminal alien deportation workload for the New York City ICE field office, so this was a hard blow to immigration enforcement in the area, not to mention its detrimental effect on community safety.

The enforcement disruption came just at the time when communities in Suffolk County had begun to experience the arrival of hundreds of illegal alien youths from Central America, including many who were involved with MS-13, the violent transnational street gang dominated primarily, but not exclusively, by members from El Salvador.

Despite pressure from advocacy groups to bar ICE from the jail and cease communicating with ICE, Sheriff DeMarco continued to cooperate with them in other ways, and complied with all ICE requests for notification of the release of any deportable aliens in custody at the jail. Still, a number of criminal aliens fell through the cracks and had to be released instead of being held and turned over to ICE for deportation proceedings.

Inexplicably, while this was playing out, ICE failed to inform Sheriff DeMarco that the Supreme Courts of New York, sitting in two neighboring counties, had decided in two different cases in 2014 and 2015 (People vs. Xirum and Josue Chery v Sheriff of Nassau) that holding an alien on an ICE detainer after a finding of probable cause is entirely permissible and is not a violation of the alien's civil rights. Said the court in Xirum:

"this court cannot say that under a Fourth Amendment analysis it is unreasonable for the [county Department of Corrections] to further hold a defendant for at most 48 hours as requested in the Detainer after the conclusion of the state case in order to give DHS an opportunity to seize the subject of the deportation order."

Further:

"Similar to the fellow officer rule that permits detention by one police officer acting on probable cause provided by another, the DOC had the right to rely upon the very federal law enforcement agency charged under the law with 'the identification, apprehension, and removal of illegal aliens from the United States.'"

Meanwhile, the number of new illegal alien youth arrivals from Central America doubled, and violence attributed to MS-13 and some of the youths affiliated with the gang significantly escalated. Since 2014, there have been at least seven murders attributed to MS-13 in just one Suffolk County town (Brentwood), including the slaying of two 16-year-old girls not involved with the gang.

After meeting with local lawmakers concerned about the public safety implications of the forced sanctuary policy, and after learning that New York courts had held that there were no legal obstacles to a fully cooperative policy, Suffolk County reversed its position. Sheriff DeMarco was able to secure an agreement from ICE to issue administrative warrants of arrest or removal to accompany the detainees, and announced an end to the sanctuary policy on December 5, 2016.

States have the sovereign right to choose sanctuary policies. Much of the argument devolving around the obligation to honor immigration detainees, and otherwise cooperate with federal immigration

authorities surrounds the issue of states' rights. This argument derives from the Tenth Amendment to the Constitution, which states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It is true that the Constitution preserves only a select few powers to the federal government—powers which, if left to the states, might very result in an unraveling of our republic. **However, among those reserved powers are foreign policy, interstate and foreign commerce and, most specifically relevant to the issue at hand, immigration.** This fundamental fact would seem to foreclose the argument that states (or their political subdivisions) can pick and choose from among the federal immigration statutes they wish to see enforced, while frustrating the remainder by refusal to cooperate with federal efforts.

Imagine, if you will, a state insisting that it had the right to establish its own foreign policy and decided to initiate "diplomatic" ties with North Korea. Or imagine that a state or one of its political subdivisions decided that it could not support a trade embargo established by the federal government, and therefore began trade negotiations with the renegade nation? Is there any doubt that the federal government would squelch any such an initiatives at their first inception and land on the backs of the intransigent state and local officials with very heavy boots? Yet this is exactly what has transpired with immigration law and policy in the last few years.

Many are probably aware that "states' rights" as embodied by the Tenth Amendment (the argument being used by sanctuary apologists today) was one of the principle arguments made by rebellious states which attempted to secede from the Union to form the Confederacy. I am not the first nor the only one to note that irony. There is something perverse about so-called progressives using a neo-Confederate states' rights argument to avoid meeting their responsibilities under the law, which includes acknowledging federal supremacy on the subject of immigration. Some on the ultra left have even gone so far as to urge California's secession from the United States (often referred to as "Calexit").

Make no doubt, I believe in states' rights—the right, for instance, of individual states to enact laws that support, and are consonant with, federal efforts at controlling illegal immigration in order to safeguard their own communities and preserve their limited resources for persons lawfully present. But in the topsy-turvy world of the Obama administration, those were the efforts that resulted in lawsuits and injunctions, while sanctuary jurisdictions have been left untouched to fester and grow.

I see sanctuary policies as nothing more, and nothing less, than a "nullification of law" effort much akin to past attempts by some states to defy federal integration policies in the field of civil rights—only this time, because the policy underlying the nullification argument is fashionable among open borders elitists, they choose to clothe it in other garb.

The justifications given by sanctuary jurisdictions for their policies have been largely unfounded:

- Cooperation with immigration enforcement **has not been shown to undermine community trust nor cause immigrants to refrain from reporting crimes**; there are better ways to address issues of access to police assistance without obstructing enforcement;
- Simply cooperating with federal immigration agencies does not turn local officers into de facto immigration officers, because federal officers make the decisions on which aliens are targeted for deportation;

- Such **cooperation is not very costly for local jurisdictions because the removal of criminal aliens spares future victims and saves future supervision, incarceration, and social services costs to criminal aliens.** In addition, cooperative localities **can receive partial reimbursement** for their incarceration costs.
- Claims by some local law enforcement agencies that they need a warrant in order to hold aliens for ICE are dubious but can be accommodated by the issuance of ICE administrative warrants.

The incoming administration has a number of tools available at its disposal and within the confines of executive authority to address the problem of sanctuaries and the public safety problems they create.

Here's how to do so:

- Rescind the Obama administration actions and policies that encourage and enable sanctuaries, including clarifying that local agencies are expected to comply with detainers;
- Cut federal funding to sanctuaries;
- Initiate civil litigation to enjoin state or local laws and policies that egregiously obstruct enforcement of federal immigration laws and regulations;
- Selectively initiate prosecution under the alien harboring-and-shielding statute, which is a federal felony; and
- When requested, issue administrative warrants to accompany detainers as a reasonable accommodation to state or local concerns. Negotiating over which aliens will be subject to detainers, as is current policy, is not a reasonable accommodation.
- Direct ICE to begin publishing a weekly report providing the public with information on all criminal aliens released by the sanctuaries.

Summary

Howard County is one of the most inclusive counties in the country. County Executive Allan Kittleman has followed in the footsteps of his father, fighting to protect human rights and equal rights of all "citizens", regardless of their color, race, religion, sexual orientation, or ethnicity, and rightfully so.

But that is where we must draw the line. To violate the law of the land, in order to promote a political agenda is appalling! As elected officials, you are obligated to act in the best interest of the tax-paying "citizens" of this county. You are to see that the county's funds are used wisely, and ensure all the services provided to the "citizens" of Howard County, including maintaining their safety, is properly provided.

The consequences of making Howard County a sanctuary jurisdiction is going to be costly. Just ask the parents of Brian Matthews and Jennifer Bowers.

Marine Corporal Brian Mathews was home on a three-day leave for the 2006 Thanksgiving holiday. He had finished an eight-month tour of duty in Iraq and was planning to leave the military in June, 2007. Corporal Mathews, 21 years old, had enlisted in the Marines on his 17th birthday.

After finishing Thanksgiving dinner with his family, Brian was picked up by his date, Jennifer Bower, 24 years old, from Columbia, Maryland. They were on their second date, having been introduced by a couple whose wedding they attended the previous June.

Brian and Jennifer were waiting for the red light to change at the intersection of Route 175 and Route 108 in Jennifer's Toyota Corolla. Eduardo Morales-Soriano, an illegal alien with a blood alcohol level four times the legal limit, slammed into their car, spinning it around and crashing the windshield. Morales-Soriano, stepped out of his Nissan Sentra, shaking his head and sat down on the guard. He had a valid Maryland driver's license.

Jennifer and Brian were taken to Maryland Shock Trauma Center where they died. When the Mathews arrived, Brian was on life support but an MRI showed no blood flow to the brain. He never gained consciousness and was pronounced dead on Friday morning.

Morales had been in the country illegally for a year. During this time, he had been **charged with four counts related to a drunk driving arrest in Howard County.** This case was dropped. Morales-Soriano was never prosecuted, nor was his license suspended.

So, before you decide if you should pass this legislation, ask yourself this question, "Do I want the blood of innocent American Citizens on my hands by knowingly allowing illegal aliens to continue to reside in my jurisdiction?"

What if Brian or Jennifer were your children?

I have two young daughters of my own. They love their schools and their friends that they have created in the past several years that we lived in Howard County. I don't want to be forced to move away because my elected county officials decided to put political agendas before their sworn duty to the legal citizens and residence of this county. I also refuse to live in fear.

Please, do not turn Howard County into a sanctuary jurisdiction.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Spenard", written in a cursive style.

Paul Spenard