



October 19, 2015

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Oppose the "Stop Sanctuary Policies and Protect Americans Act" (S. 2146)

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national advocacy organizations, we urge you to oppose S. 2146, the "Stop Sanctuary Cities Act." This bill would unnecessarily and unwisely penalize states and municipalities that are attempting to strike the delicate balance between cooperating with federal immigration authorities, on one hand, and respecting the constraints imposed on them by the United States Constitution, on the other. At the same time, it would do nothing to address the constitutional concerns raised by the use of immigration "detainer" requests, concerns that the Department of Homeland Security itself is currently attempting to resolve.

S. 2146 would revoke federal funding under the Justice Department's State Criminal Alien Assistance Program ("SCAAP"), the Community Oriented Policing Services/COPS on the Beat program ("COPS"), and the Department of Housing & Urban Development's Community Development Block Grants ("CDBG") unless these jurisdictions comply with all DHS detainer requests. It aims to overturn local policies adopted by over 300 jurisdictions across the country that have determined, as a matter of constitutional law and sound public policy, including community policing efforts, that they cannot hold individuals beyond their release dates solely on the basis of a DHS detainer request.

The senseless and tragic killing of Kathryn Steinle in San Francisco has renewed the debate over so-called "sanctuary cities." Yet the term suggests, incorrectly, that certain states and municipalities are refusing to work with federal immigration enforcement authorities. The truth is that state and local law enforcement agencies ("LEAs") throughout the country already aid in the identification of individuals who are subject to immigration enforcement action through the sharing of fingerprints of those who are taken into custody. LEAs with limited detainer policies have determined, however, that they cannot continue to detain individuals for immigration enforcement purposes, under the Fourth Amendment and pursuant to numerous court rulings, unless DHS obtains a judicial warrant, as all other law enforcement agencies are required to do.

S. 2146 would not address the Fourth Amendment concerns raised by the use of DHS detainees. Instead, it would leave many state and municipal governments in an untenable position: either they must disregard their constitutional responsibilities and erode the trust they have built between the police and the immigrant communities they serve, or they will face the loss of vital federal law enforcement funding that helps them fight crime in their jurisdictions. As the DHS continues to review and refine its policies involving the use of detainees, Congress should not inject such an arbitrary and unwise choice into the discussion.

We are also troubled that S. 2146 would tie the hands of judges and prosecutors by creating new mandatory minimum sentences, including for previously removed individuals who had been convicted of an "aggravated felony." Despite the wording of this term, under the



Immigration and Nationality Act it encompasses a number of offenses that under state laws are not “aggravated” or even “felonies.” As a result, this provision will unnecessarily remove appropriate authority from judges, increase costs to taxpayers, and lock up nonviolent offenders. Mandatory minimum sentencing provisions have been widely recognized as a failure in the criminal justice system. They should not be replicated in the immigration system.

Again, we urge you to oppose S. 2146. If you have any questions, please contact either of us or Rob Randhava, Senior Counsel, at (202) 466-3311.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President