

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: S3/20/25 S4/1/25 S4/2/25

2 95th General Assembly

A Bill

3 Regular Session, 2025

SENATE BILL 426

4

5 By: Senators Hester, *J. Boyd, J. Dismang, Flippo, B. Johnson, Stone, G. Stubblefield, D. Sullivan*

6 By: Representatives Cavanaugh, R. Burkes, *Barker, Beck, Bentley, S. Berry, Breaux, A. Brown, K. Brown,*

7 *M. Brown, Joey Carr, Childress, C. Cooper, Cozart, Crawford, Furman, Gazaway, Gonzales, Holcomb,*

8 *Jean, McNair, Milligan, J. Moore, Nazarenko, Painter, Puryear, Richmond, M. Shepherd, Torres, Tosh,*

9 *Underwood, Unger, Walker*

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For An Act To Be Entitled

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AN ACT TO CREATE THE DEFENSE AGAINST CRIMINAL

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ILLEGALS ACT; TO ESTABLISH ENHANCED PENALTIES FOR

14

ILLEGAL ALIENS WHO COMMIT SERIOUS FELONIES INVOLVING

15

VIOLENCE; TO ENSURE THAT SHERIFF'S OFFICES AND THE

16

DIVISION OF CORRECTION CAN PARTICIPATE IN THE WARRANT

17

SERVICE OFFICER PROGRAM; TO EXPAND THE STATE'S

18

CURRENT BAN ON SANCTUARY CITIES TO INCLUDE COUNTIES

19

AND UNINCORPORATED AREAS; AND FOR OTHER PURPOSES.

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21

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Subtitle

23

TO CREATE THE DEFENSE AGAINST CRIMINAL

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ILLEGALS ACT; AND TO ESTABLISH ENHANCED

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PENALTIES FOR ILLEGAL ALIENS WHO COMMIT

26

SERIOUS FELONIES INVOLVING VIOLENCE.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. DO NOT CODIFY. Title.

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This act shall be known and may be cited as the "Defense Against

32

Criminal Illegals Act".

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SECTION 2. Arkansas Code Title 5, Chapter 4, Subchapter 7, is amended

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to add an additional section to read as follows:

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5-4-708. Enhanced penalties for serious felonies involving violence



1 committed while in the country illegally – Definition.

2 (a) As used in this section, “serious felony involving violence”
3 means:

4 (1) Murder in the first degree, § 5-10-102;

5 (2) Murder in the second degree, § 5-10-103;

6 (3) Battery in the first degree, § 5-13-201;

7 (4) Aggravated assault, § 5-13-204;

8 (5) Terroristic threatening, § 5-13-301, if a felony;

9 (6) Terroristic act, § 5-13-310;

10 (7) Rape, § 5-14-103;

11 (8) Causing a catastrophe, § 5-38-202(a);

12 (9) Arson, § 5-38-301;

13 (10) Terrorism, § 5-54-205;

14 (11) A felony offense under § 5-54-201 et seq.;

15 (12) Criminal use of prohibited weapons, § 5-73-104, involving
16 an activity making the offense punishable by a Class B felony;

17 (13) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

18 or

19 (14) A felony attempt, solicitation, or conspiracy to commit an
20 offense listed in this subsection, if the attempt, solicitation, or
21 conspiracy constitutes a felony.

22 (b) A person is subject to an enhanced penalty for a serious felony
23 involving violence in this state if the person was illegally or unlawfully in
24 the United States at the time that the serious felony involving violence was
25 committed in this state.

26 (c) The enhanced penalty under this section is as follows:

27 (1) If the person is convicted of a Class D felony or an
28 unclassified felony with a maximum authorized term of imprisonment that does
29 not exceed six (6) years, the enhanced penalty shall be an additional term of
30 years not to exceed four (4) years;

31 (2) If the person is convicted of a Class C felony, a Class B
32 felony, a Class A felony, or an unclassified felony with a maximum authorized
33 term of imprisonment that is greater than six (6) years, but does not exceed
34 thirty (30) years, the enhanced penalty shall be an additional term of years
35 not to exceed ten (10) years; and

36 (3) If the person is convicted of a Class Y felony or an

1 unclassified felony with a maximum authorized term of imprisonment that
2 exceeds thirty (30) years or that includes a life sentence, the enhanced
3 penalty shall be an additional term of years not to exceed twenty (20) years.

4 (d)(1) To seek an enhanced penalty established in this section, a
5 prosecuting attorney shall notify the defendant in writing that the defendant
6 is subject to the enhanced penalty.

7 (2) If the defendant is charged by information or indictment,
8 the prosecuting attorney may include the written notice in the information or
9 indictment.

10 (e) The enhanced portion of the sentence is consecutive to any other
11 sentence imposed.

12 (f) Any person convicted under this section is not eligible for early
13 release on parole, transfer to post-release supervision, or community
14 correction transfer for the enhanced portion of the sentence.

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16 SECTION 3. Arkansas Code Title 12, Chapter 27, Subchapter 1, is
17 amended to add an additional section to read as follows:

18 12-27-152. Division of Correction participation in the Warrant Service
19 Officer Program – Definition.

20 (a) As used in this section, "Warrant Service Officer Program" means
21 the program of the United States Immigration and Customs Enforcement
22 authorizing state and local law enforcement officers to serve and execute
23 administrative warrants under the Immigration and Nationality Act, 8 U.S.C. §
24 1357(g), as it existed on January 1, 2025.

25 (b) The Division of Correction shall:

26 (1) Apply to participate in the Warrant Service Officer Program;

27 (2) Upon a successful application, enter into an agreement with
28 United States Immigration and Customs Enforcement for participation in the
29 Warrant Service Officer Program; and

30 (3) Renew the agreement upon the expiration of the agreement.

31 (c) If the division applies to participate in the Warrant Service
32 Officer Program and is denied, the division shall:

33 (1) Ascertain from the United States Customs and Immigration
34 Enforcement the reason for the denial of the division's application;

35 (2) Make a good faith effort to address and remedy the reason
36 for the denial of the application; and

1 (3) Reapply to participate in the Warrant Service Officer
2 Program.

3 (d)(1) If the division applies to participate in the Warrant Service
4 Officer Program and is continually denied, the division may apply for a
5 waiver from the state.

6 (2) The Division of Correction shall promulgate rules for the
7 process of obtaining a waiver from the state under subdivision (d)(1) of this
8 section.

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10 SECTION 4. Arkansas Code Title 12, Chapter 41, Subchapter 5, is
11 amended to add an additional section to read as follows:

12 12-41-512. Participation in Warrant Service Officer Program by county
13 sheriff in charge of a county jail – Definition.

14 (a) As used in this section:

15 (1) "Jail Enforcement Model" means a model of the United States
16 Immigration and Customs Enforcement authorizing deputized state and local law
17 enforcement officers to interrogate a person for information relating to the
18 person's immigration status and to issue an immigration detainer under the
19 Immigration and Nationality Act, 8 U.S.C. § 1357(g), as it existed on January
20 1, 2025; and

21 (2) "Warrant Service Officer Program" means the program of the
22 United States Immigration and Customs Enforcement authorizing state and local
23 law enforcement officers to serve and execute administrative warrants under
24 the Immigration and Nationality Act, 8 U.S.C. § 1357(g), as it existed on
25 January 1, 2025.

26 (b) A county sheriff in charge of a county jail shall:

27 (1) Apply to participate in the Warrant Service Officer Program;

28 (2) Upon a successful application, enter into an agreement with
29 United States Immigration and Customs Enforcement for participation in the
30 Warrant Service Officer Program; and

31 (3) Renew the agreement upon the expiration of the agreement.

32 (c)(1) A county sheriff in charge of a county jail may choose to
33 participate in the Jail Enforcement Model.

34 (2) If a county sheriff in charge of a county jail participates
35 in the Jail Enforcement Model, the county sheriff in charge of a county jail
36 is exempt from the requirements under this section to participate in the

1 Warrant Service Officer Model or the Warrant Service Officer Program.

2 (d) If a county sheriff in charge of a county jail applies to
3 participate in the Warrant Service Officer Program and is denied, he or she
4 shall:

5 (1) Ascertain from the United States Customs and Immigration
6 Enforcement the reason for the denial of his or her application;

7 (2) Make a good faith effort to address and remedy the reason
8 for the denial of the application; and

9 (3) Apply again to participate in the Warrant Service Officer
10 Program.

11 (e)(1) If a county sheriff in charge of a county jail applies to
12 participate in the Warrant Service Officer Program and is continually denied,
13 he or she may apply for a waiver from the state.

14 (2) The Division of Correction shall promulgate rules for the
15 process of obtaining a waiver from the state under subdivision (e)(1) of this
16 section.

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18 SECTION 5. Arkansas Code § 14-1-103 is amended to read as follows:
19 14-1-103. Sanctuary policies prohibited – Definition.

20 (a)(1) A ~~municipality~~ local government shall not enact or adopt a
21 sanctuary policy.

22 (2) A ~~municipality~~ local government that enacts or adopts a
23 sanctuary policy is ineligible for discretionary moneys provided through
24 funds or grants administered by the state until the sanctuary policy is
25 repealed or no longer in effect.

26 (b) As used in this section,:

27 (1) "Local government" means:

28 (A) A county;

29 (B) A city of the first class, a city of the second class,
30 or an incorporated town; or

31 (C) Any other political subdivision of the state; and

32 (2) ~~sanctuary~~ Sanctuary policy means an order, ordinance, or
33 law enforcement policy, whether formally enacted or informally adopted by
34 custom or practice, that:

35 ~~(1)(A)~~ (A) Limits or prohibits a ~~municipal~~ local government official
36 or person employed by the ~~municipality~~ local government from communicating or

1 cooperating with federal agencies or officials to verify or report the
2 immigration status of a person within the ~~municipality~~ local government;

3 ~~(2)(B)~~ Grants to illegal immigrants the right to lawful presence
4 or status within the ~~municipality~~ local government in violation of federal
5 law;

6 ~~(3)(C)~~ Violates 8 U.S.C. § 1373, as in effect January 1, 2019;

7 ~~(4)(D)~~ Restricts or imposes any conditions upon the
8 ~~municipality's~~ local government's cooperation or compliance with detainers or
9 other requests from United States Immigration and Customs Enforcement to
10 maintain custody of an immigrant or to transfer an immigrant to the custody
11 of United States Immigration and Customs Enforcement;

12 ~~(5)(E)~~ Requires United States Immigration and Customs
13 Enforcement to obtain a warrant or demonstrate more than probable cause
14 before complying with detainers or other legal and valid requests from United
15 States Immigration and Customs Enforcement to maintain custody of an
16 immigrant or to transfer an immigrant to the custody of United States
17 Immigration and Customs Enforcement; or

18 ~~(6)(F)~~ Prevents law enforcement officers from asking a person
19 about his or her citizenship or immigration status.

20 (c)(1) Upon receiving a complaint from a resident of the state of a
21 violation of this section by a ~~municipality~~ local government, the Attorney
22 General shall issue an opinion stating whether the ~~municipality~~ local
23 government is in violation of this section.

24 (2) If the Attorney General issues an opinion stating that the
25 ~~municipality~~ local government has enacted or adopted a sanctuary policy that
26 violates this section, the ~~municipality~~ local government is ineligible to
27 receive discretionary moneys provided through funds or grants administered by
28 the state until the Attorney General certifies that the sanctuary policy is
29 repealed or no longer in effect.

30 (d)(1) Before the provision of funds or the award of grants is made to
31 a ~~municipality~~ local government, a member of the General Assembly may request
32 that the Attorney General issue an opinion stating whether the ~~municipality~~
33 local government has current policies in violation of this section.

34 (2) A ~~municipality~~ local government deemed ineligible for
35 discretionary moneys under this section is ineligible to receive
36 discretionary moneys provided through funds or grants administered by the

1 state until the Attorney General certifies that the ~~municipality~~ local
2 government is in full compliance with this section.

3 (e) A ~~municipality~~ local government may appeal a decision of the
4 Attorney General under this section to the Pulaski County Circuit Court.

5 (f) Records created in connection with administrative investigations
6 related to this section are not subject to the Freedom of Information Act of
7 1967, § 25-19-101 et seq.

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/s/Hester

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