

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*

2 95th General Assembly

A Bill

3 Regular Session, 2025

SENATE BILL 426

4

5 By: Senator Hester

6 By: Representatives Cavanaugh, R. Burkes

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8

For An Act To Be Entitled

9 AN ACT TO CREATE THE DEFENSE AGAINST CRIMINAL
10 ILLEGALS ACT; TO ESTABLISH ENHANCED PENALTIES FOR
11 ILLEGAL ALIENS WHO COMMIT SERIOUS FELONIES INVOLVING
12 VIOLENCE; TO ENSURE THAT SHERIFF'S OFFICES AND THE
13 DIVISION OF CORRECTION CAN PARTICIPATE IN THE WARRANT
14 SERVICE OFFICER PROGRAM; TO EXPAND THE STATE'S
15 CURRENT BAN ON SANCTUARY CITIES TO INCLUDE COUNTIES
16 AND UNINCORPORATED AREAS; AND FOR OTHER PURPOSES.

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Subtitle

20 TO CREATE THE DEFENSE AGAINST CRIMINAL
21 ILLEGALS ACT; AND TO ESTABLISH ENHANCED
22 PENALTIES FOR ILLEGAL ALIENS WHO COMMIT
23 SERIOUS FELONIES INVOLVING VIOLENCE.

24

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

26

27 SECTION 1. DO NOT CODIFY. Title.

28 This act shall be known and may be cited as the "Defense Against
29 Criminal Illegals Act".

30

31 SECTION 2. Arkansas Code Title 5, Chapter 4, Subchapter 7, is amended
32 to add an additional section to read as follows:

33 5-4-708. Enhanced penalties for serious felonies involving violence
34 committed while in the country illegally – Definition.

35 (a) As used in this section, "serious felony involving violence"
36 means:



- 1 (1) Murder in the first degree, § 5-10-102;
- 2 (2) Murder in the second degree, § 5-10-103;
- 3 (3) Battery in the first degree, § 5-13-201;
- 4 (4) Aggravated assault, § 5-13-204;
- 5 (5) Terroristic threatening, § 5-13-301, if a felony;
- 6 (6) Terroristic act, § 5-13-310;
- 7 (7) Rape, § 5-14-103;
- 8 (8) Causing a catastrophe, § 5-38-202(a);
- 9 (9) Arson, § 5-38-301;
- 10 (10) Terrorism, § 5-54-205;
- 11 (11) A felony offense under § 5-54-201 et seq.;
- 12 (12) Criminal use of prohibited weapons, § 5-73-104, involving
- 13 an activity making the offense punishable by a Class B felony;
- 14 (13) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

15 or

16 (14) A felony attempt, solicitation, or conspiracy to commit an
17 offense listed in this subsection, if the attempt, solicitation, or
18 conspiracy constitutes a felony.

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

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

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

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

33 (3) If the person is convicted of a Class Y felony or an
34 unclassified felony with a maximum authorized term of imprisonment that
35 exceeds thirty (30) years or that includes a life sentence, the enhanced
36 penalty shall be an additional term of years not to exceed twenty (20) years.

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

4 (2) If the defendant is charged by information or indictment,
5 the prosecuting attorney may include the written notice in the information or
6 indictment.

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

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

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

15 12-27-152. Division of Correction participation in the Warrant Service
16 Officer Program – Definition.

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

22 (b) The Division of Correction shall:

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

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

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

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

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

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

34 (3) Reapply to participate in the Warrant Service Officer
35 Program.

36 (d)(1) If the division applies to participate in the Warrant Service

1 Officer Program and is continually denied, the division may apply for a
2 waiver from the state.

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

6
7 SECTION 4. Arkansas Code Title 12, Chapter 41, Subchapter 5, is
8 amended to add an additional section to read as follows:

9 12-41-512. Participation in Warrant Service Officer Program by county
10 sheriff in charge of a county jail – Definition.

11 (a) As used in this section:

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

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

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

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

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

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

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

31 (2) If a county sheriff in charge of a county jail participates
32 in the Jail Enforcement Model, the county sheriff in charge of a county jail
33 is exempt from the requirements under this section to participate in the
34 Warrant Service Officer Model or the Warrant Service Officer Program.

35 (d) If a county sheriff in charge of a county jail applies to
36 participate in the Warrant Service Officer Program and is denied, he or she

1 shall:

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

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

6 (3) Apply again to participate in the Warrant Service Officer
7 Program.

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

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

14

15 SECTION 5. Arkansas Code § 14-1-103 is amended to read as follows:

16 14-1-103. Sanctuary policies prohibited – Definition.

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

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

23 (b) As used in this section:

24 (1) "Local government" means:

25 (A) A county;

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

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

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

32 ~~(1)(A)~~ Limits or prohibits a ~~municipal~~ local government official
33 or person employed by the ~~municipality~~ local government from communicating or
34 cooperating with federal agencies or officials to verify or report the
35 immigration status of a person within the ~~municipality~~ local government;

36 ~~(2)(B)~~ Grants to illegal immigrants the right to lawful presence

1 or status within the ~~municipality~~ local government in violation of federal
2 law;

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

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

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

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

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

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

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

31 (2) A ~~municipality~~ local government deemed ineligible for
32 discretionary moneys under this section is ineligible to receive
33 discretionary moneys provided through funds or grants administered by the
34 state until the Attorney General certifies that the ~~municipality~~ local
35 government is in full compliance with this section.

36 (e) A ~~municipality~~ local government may appeal a decision of the

1 Attorney General under this section to the Pulaski County Circuit Court.

2 (f) Records created in connection with administrative investigations
3 related to this section are not subject to the Freedom of Information Act of
4 1967, § 25-19-101 et seq.

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/s/Hester

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