

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

SENATE BILL 426

5 By: Senator Hester  
6 By: Representatives Cavanaugh, R. Burkes  
7

## 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

19 TO CREATE THE DEFENSE AGAINST CRIMINAL  
20 ILLEGALS ACT; AND TO ESTABLISH ENHANCED  
21 PENALTIES FOR ILLEGAL ALIENS WHO COMMIT  
22 SERIOUS FELONIES INVOLVING VIOLENCE.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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".  
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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) Causing a catastrophe, § 5-38-202(a);
- 8 (8) Arson, § 5-38-301;
- 9 (9) Terrorism, § 5-54-205;
- 10 (10) A felony offense under § 5-54-201 et seq.;
- 11 (11) Criminal use of prohibited weapons, § 5-73-104, involving
- 12 an activity making the offense punishable by a Class B felony;
- 13 (12) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

14 or

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

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

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

23 (1) If the person is convicted of an unclassified felony, the  
24 offense shall be a Class D felony;

25 (2) If the person is convicted of a Class D felony, the offense  
26 shall be a Class C felony;

27 (3) If the person is convicted of a Class C felony, the offense  
28 shall be a Class B felony;

29 (4) If the person is convicted of a Class B felony, the offense  
30 shall be a Class A felony;

31 (5) If the person is convicted of a Class A felony, the offense  
32 shall be a Class Y felony; and

33 (6) If the person is convicted of a Class Y felony, an  
34 additional period of imprisonment of at least two (2) years but no more than  
35 ten (10) years.

36 (d)(1) To seek an enhanced penalty established in this section, a

1 prosecuting attorney shall notify the defendant in writing that the defendant  
2 is subject to the enhanced penalty.

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

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

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

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

14 12-27-152. Division of Correction participation in the Warrant Service  
15 Officer Program – Definition.

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

21 (b) The Division of Correction shall:

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

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

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

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

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

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

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

35 (d)(1) If the division applies to participate in the Warrant Service  
36 Officer Program and is continually denied, the division may apply for a

1 waiver from the state.

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

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

8 12-41-512. Participation in Warrant Service Officer Program by county  
9 sheriff in charge of a county jail – Definition.

10 (a) As used in this section, "Warrant Service Officer Program" means  
11 the program of the United States Immigration and Customs Enforcement  
12 authorizing state and local law enforcement officers to serve and execute  
13 administrative warrants under the Immigration and Nationality Act, 8 U.S.C. §  
14 1357(g), as it existed on January 1, 2025.

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

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

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

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

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

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

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

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

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

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

36 (e)(1) If a county sheriff in charge of a county jail applies to

1 participate in the Warrant Service Officer Program and is continually denied,  
 2 he or she may apply for a 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 (e)(1) of this  
 5 section.

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

8 14-1-103. Sanctuary policies prohibited – Definition.

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

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

15 (b) As used in this section,:

16 (1) "Local government" means:

17 (A) A county;

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

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

21 (2) ~~"sanctuary~~ Sanctuary policy" means an order, ordinance, or  
 22 law enforcement policy, whether formally enacted or informally adopted by  
 23 custom or practice, that:

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

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

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

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

1           ~~(5)~~(E) Requires United States Immigration and Customs  
2 Enforcement to obtain a warrant or demonstrate more than probable cause  
3 before complying with detainers or other legal and valid requests from United  
4 States Immigration and Customs Enforcement to maintain custody of an  
5 immigrant or to transfer an immigrant to the custody of United States  
6 Immigration and Customs Enforcement; or

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

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

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

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

23           (2) A ~~municipality~~ local government deemed ineligible for  
24 discretionary moneys under this section is ineligible to receive  
25 discretionary moneys provided through funds or grants administered by the  
26 state until the Attorney General certifies that the ~~municipality~~ local  
27 government is in full compliance with this section.

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

30           (f) Records created in connection with administrative investigations  
31 related to this section are not subject to the Freedom of Information Act of  
32 1967, § 25-19-101 et seq.

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