

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0600.01 Michael Dohr

HOUSE BILL 11-1140

HOUSE SPONSORSHIP

Balmer,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO STRENGTHEN THE ENFORCEMENT OF LAWS
102 AGAINST ILLEGAL ALIENS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits a local government that refuses to participate in the United States department of homeland security's immigration and customs enforcement agency's secure communities initiative from:

- ! Receiving a local government grant or a direct allocation from the local government severance tax fund or local

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

government mineral impact fund; and
! Receiving the local government's allocation from the
cigarette tax revenues.

The money that is not distributed or allocated is redirected proportionately to all eligible local governments.

A person who transports or moves a known unlawful alien in Colorado in a vehicle, in furtherance of the alien's unlawful presence, or who conceals, harbors, or shields a known unlawful alien from detection in any place in Colorado commits a class 1 misdemeanor or, if 10 or more unauthorized aliens are involved, a class 6 felony. A law enforcement official or agency must impound or immobilize a person's vehicle if it is used to unlawfully transport, move, conceal, harbor, or shield a known unlawful alien, subject to exemptions for child protective services workers and emergency responders.

The director of the Colorado bureau of investigation will implement the secure communities program in consultation with the state associations that represent sheriffs and the chiefs of police and any other interested law enforcement organizations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds that there is a compelling interest in the cooperative enforcement of
4 federal immigration laws throughout Colorado, because illegal aliens put
5 a considerable strain on local, state, and federal resources. The
6 provisions of this act are intended to work together to discourage and
7 deter the unlawful entry and presence of aliens.

8 **SECTION 2.** Article 29 of title 29, Colorado Revised Statutes, is
9 amended BY THE ADDITION OF A NEW SECTION to read:

10 **29-29-104. Cooperation with federal officials regarding**
11 **immigration status.** (1) EACH LOCAL GOVERNMENT IN THE STATE SHALL
12 PARTICIPATE IN THE UNITED STATES DEPARTMENT OF HOMELAND
13 SECURITY'S IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY'S SECURE
14 COMMUNITIES INITIATIVE. THE DEPARTMENT OF PUBLIC SAFETY SHALL
15 PUBLISH AND UPDATE A LIST OF ALL OF THE LOCAL GOVERNMENTS THAT

1 ARE PARTICIPATING IN THE SECURE COMMUNITIES INITIATIVE.

2 (2) A LOCAL GOVERNMENT THAT VIOLATES SUBSECTION (1) OF
3 THIS SECTION SHALL NOT BE ELIGIBLE TO RECEIVE GRANTS OR DIRECT
4 DISTRIBUTIONS FROM THE LOCAL GOVERNMENT SEVERANCE TAX FUND
5 CREATED IN SECTION 39-29-110, C.R.S., OR THE LOCAL GOVERNMENT
6 MINERAL IMPACT FUND CREATED IN SECTION 34-63-102, C.R.S., UNTIL
7 SUCH TIME AS IT PARTICIPATES IN THE UNITED STATES DEPARTMENT OF
8 HOMELAND SECURITY'S IMMIGRATION AND CUSTOMS ENFORCEMENT
9 AGENCY'S SECURE COMMUNITIES INITIATIVE. THE SHARE OF A LOCAL
10 GOVERNMENT'S DIRECT DISTRIBUTION THAT IS PROHIBITED PURSUANT TO
11 THIS SUBSECTION (2) SHALL BE DISTRIBUTED PROPORTIONATELY, BASED
12 ON THE ELIGIBLE LOCAL GOVERNMENT'S DIRECT DISTRIBUTION SHARE, TO
13 EACH REMAINING LOCAL GOVERNMENT THAT IS ELIGIBLE FOR THE
14 DISTRIBUTION.

15 (3) A LOCAL GOVERNMENT THAT VIOLATES SUBSECTION (1) OF
16 THIS SECTION SHALL NOT BE ELIGIBLE TO RECEIVE ITS ALLOCATION FROM
17 GROSS STATE CIGARETTE TAX REVENUES PURSUANT TO SECTION
18 39-22-623, C.R.S., UNTIL SUCH TIME AS IT PARTICIPATES IN THE UNITED
19 STATES DEPARTMENT OF HOMELAND SECURITY'S IMMIGRATION AND
20 CUSTOMS ENFORCEMENT AGENCY'S SECURE COMMUNITIES INITIATIVE.
21 THE SHARE OF A LOCAL GOVERNMENT'S DIRECT ALLOCATION THAT IS
22 PROHIBITED PURSUANT TO THIS SUBSECTION (3) SHALL BE DISTRIBUTED
23 PROPORTIONATELY, BASED ON THE ELIGIBLE LOCAL GOVERNMENT'S
24 DIRECT ALLOCATION SHARE, TO EACH REMAINING LOCAL GOVERNMENT
25 THAT IS ELIGIBLE FOR THE ALLOCATION.

26 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE
27 PROHIBITION ON SANCTUARY CITIES AS PROVIDED FOR IN SECTION

1 29-29-103.

2 **SECTION 3.** 18-13-128 (1) and (2), Colorado Revised Statutes,
3 are amended, and the said 18-13-128 is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

5 **18-13-128. Smuggling of humans.** (1) A person commits
6 smuggling of humans if:

7 (a) For the purpose of assisting another person to enter, remain in,
8 or travel through the United States or the state of Colorado in violation of
9 immigration laws, he or she provides or agrees to provide transportation
10 to that person in exchange for money or any other thing of value;

11 (b) A PERSON TRANSPORTS OR MOVES OR ATTEMPTS TO
12 TRANSPORT OR MOVE AN ALIEN IN THIS STATE, IN FURTHERANCE OF THE
13 UNLAWFUL PRESENCE OF THE ALIEN IN THE UNITED STATES, IN A MEANS
14 OF TRANSPORTATION IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS
15 THE FACT THAT THE ALIEN HAS COME TO, ENTERED, OR REMAINS IN THE
16 UNITED STATES IN VIOLATION OF LAW; OR

17 (c) A PERSON CONCEALS, HARBORS, OR SHIELDS OR ATTEMPTS TO
18 CONCEAL, HARBOR, OR SHIELD AN ALIEN FROM DETECTION IN ANY PLACE
19 IN THIS STATE, INCLUDING ANY BUILDING OR ANY MEANS OF
20 TRANSPORTATION, IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS
21 THE FACT THAT THE ALIEN HAS COME TO, ENTERED, OR REMAINS IN THE
22 UNITED STATES IN VIOLATION OF LAW.

23 (2) (a) Smuggling of humans IN VIOLATION OF PARAGRAPH (a) OF
24 SUBSECTION (1) OF THIS SECTION is a class 3 felony.

25 (b) SMUGGLING OF HUMANS IN VIOLATION OF PARAGRAPH (b) OR
26 (c) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 1 MISDEMEANOR AND
27 THE PERSON IS SUBJECT TO AT LEAST A FINE OF ONE THOUSAND DOLLARS;

1 EXCEPT THAT A VIOLATION OF PARAGRAPH (b) OR (c) OF SUBSECTION (1)
2 OF THIS SECTION THAT INVOLVES TEN OR MORE UNAUTHORIZED ALIENS IS
3 A CLASS 6 FELONY AND THE PERSON IS SUBJECT TO AT LEAST A FINE OF ONE
4 THOUSAND DOLLARS FOR EACH ALIEN WHO IS INVOLVED IN THE
5 SMUGGLING OF HUMANS IN VIOLATION OF PARAGRAPH (b) OR (c) OF
6 SUBSECTION (1) OF THIS SECTION.

7 (5) A MEANS OF TRANSPORTATION THAT IS USED IN THE
8 COMMISSION OF A VIOLATION OF THIS SECTION IS SUBJECT TO MANDATORY
9 VEHICLE IMMOBILIZATION OR IMPOUNDMENT.

10 (6) THIS SECTION DOES NOT APPLY TO A CHILD PROTECTIVE
11 SERVICES WORKER ACTING IN THE WORKER'S OFFICIAL CAPACITY OR A
12 PERSON WHO IS ACTING IN THE CAPACITY OF A FIRST RESPONDER, AN
13 AMBULANCE ATTENDANT, OR AN EMERGENCY MEDICAL TECHNICIAN AND
14 WHO IS TRANSPORTING OR MOVING AN UNAUTHORIZED ALIEN IN THIS
15 STATE.

16 **SECTION 4.** 24-33.5-404, Colorado Revised Statutes, is
17 amended to read:

18 **24-33.5-404. Duties of the director.** (1) The director shall be the
19 chief administrative officer of the bureau and shall also be an agent. He
20 shall supervise and direct the administration and all other activities of the
21 bureau. The director shall prescribe rules, ~~and regulations,~~ not
22 inconsistent with law, for the operation of the bureau and the conduct of
23 its personnel and the distribution and performance of their duties.

24 (2) THE DIRECTOR SHALL IMPLEMENT THE UNITED STATES
25 DEPARTMENT OF HOMELAND SECURITY'S IMMIGRATION AND CUSTOMS
26 ENFORCEMENT AGENCY'S SECURE COMMUNITIES INITIATIVE IN
27 CONSULTATION WITH THE STATE ASSOCIATION THAT REPRESENTS COUNTY

1 SHERIFFS, THE STATE ASSOCIATION THAT REPRESENTS CHIEFS OF POLICE,
2 AND OTHER INTERESTED LAW ENFORCEMENT ORGANIZATIONS.

3 **SECTION 5. Effective date.** (1) This act shall take effect upon
4 passage; except that:

5 (a) Section 2 of this act shall take effect thirty days after the
6 United States department of homeland security's immigration and customs
7 enforcement agency's secure communities initiative is made available to
8 each local government in the state; and

9 (b) Section 3 of this act shall take effect July 1, 2011.

10 (2) Within ten days of the United States department of homeland
11 security's immigration and customs enforcement agency's secure
12 communities initiative being made available to each local government in
13 the state, the executive director of the department of public safety shall
14 notify the revisor of statutes in writing.

15 **SECTION 6. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.