



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 10/29/2007 (Per: MES)





Appendix A

 The 2007 drafting file for LRB-3120/3

has been copied/added to the drafting file for

2007 LRB-3372

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

2007 DRAFTING REQUEST

Bill

Received: 08/30/2007

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Glenn Grothman (608) 266-7513

By/Representing: Jim

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - counties
Local Gov't - munis generally

Extra Copies: RLR, BAB

Submit via email: YES

Requester's email: Sen.Grothman@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit local governments from becoming illegal alien sanctuaries; prohibit local ordinances that prohibit immigration status inquiries

Instructions:

See Attached. Based on 2005 SB 715 (LRB -4930), and add provision prohibiting local gov'ts from becoming sanctuaries for illegal aliens

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 08/31/2007	jdyer 09/05/2007		_____			Local
/1			rschluet 09/05/2007	_____	lparisi 09/05/2007		S&L
/2	mshovers 10/12/2007	jdyer 10/16/2007	pgreensl 10/16/2007	_____	lparisi 10/16/2007		S&L

LRB-3120

10/19/2007 11:47:22 AM

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	mshovers 10/18/2007	jdye 10/19/2007	rschluet 10/19/2007	_____	mbarman 10/19/2007		

FE Sent For:

<END>

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Local Gov't - munis generally**

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/?	mshovers 08/31/2007	jdyer 09/05/2007		_____			Local
/1		13 10/19/07 jd	rschlue 09/05/2007	_____	lparisi 09/05/2007		S&L
/2	mshovers 10/12/2007	jdyer 10/16/2007	pgreensl 10/16/2007	_____	lparisi 10/16/2007		

13 MES 10/18/07

LRB-3120

10/16/2007 10:42:28 AM

Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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/?	mshovers 08/31/2007	jdyer 09/05/2007					Local
/1		12/10/07 12/15/07 jld	rschlue 09/05/2007		lparisi 09/05/2007		
	12 MES 10/12/07			10/16/07 10/16/07 pg			

FE Sent For:

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1?	mshovers	<i>1 9/5 jld</i>	<i>[Signature]</i>				
<i>11 MES</i>	<i>8/31/07</i>	<i>[Signature]</i>	<i>[Signature]</i>				

FE Sent For: *957* *pb*

<END>

Shovers, Marc

From: Emerson, James
Sent: Thursday, August 30, 2007 3:05 PM
To: Shovers, Marc
Subject: Sanctuary Cities

<http://www.ojjpac.org/sanctuary.asp>

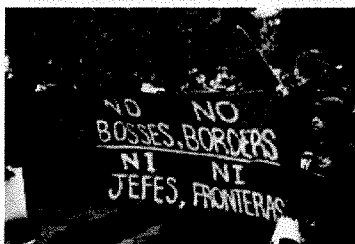
Hope this is helpful. If you need more information, please contact me.

Jim Emerson
Senator Grothman's Office
266-7512

3

Shovers, Marc

From: Shovers, Marc
Sent: Thursday, August 30, 2007 4:30 PM
To: Shovers, Marc
Subject: Info sent from Jim Emerson, without the list of sanctuary cities



OJJPAC: "Sanctuary Cities, USA"

Ohio Jobs & Justice PAC

[Go to Home](#) **Email: salvi@ojjpac.org**

Sanctuary Cities, USA

(Sanctuary Cities list below)

From 9/11 Commission hearings:

LEHMAN: *"Were you aware that it was the US government established policy not to question or oppose the sanctuary policies of New York, Los Angeles, Houston, Chicago, San Diego for political reasons, which policy in those cities prohibited the local police from cooperating at all with federal immigration authorities?"*

CONDOLEEZA RICE: *"I do not believe I was aware of that."*

Sanctuary Cities: What are they?

By Steve Salvi (Revised 8-12-07)

Despite a 1996 federal law [the Illegal Immigration Reform and Immigrant Responsibility Act that requires local governments to cooperate with Department of Homeland Security's Immigration Customs Enforcement (ICE), many large urban cities (and some small) have adopted so-called policies." Generally, sanctuary policies instruct city employees not to notify the federal government of the presence of illegal aliens living in their communities. The policies also end the distinction between legal and illegal immigration--so illegal aliens often benefit from city services too.

A formal sanctuary policy is a written policy that may have been passed by a local government

08/30/2007

the form of a resolution, ordinance, or administrative action--general or special orders, or department policies. Formal sanctuary cities are the easiest to identify since their actions to become a sanctuary are public record. [Click here to read one city's \(Tulsa, OK\) police department policy.](#)

An informal sanctuary policy is a policy that does not exist on paper but none-the-less is carried out by government workers (administrative, service, or safety). An informal sanctuary policy is more difficult to document, since no obvious public record exists. Since no public records are available, a local government's (e.g., township, village, or city) actions in regards to interacting with illegal aliens provide evidence of its "unwritten" policy regarding illegal aliens. Statements and actions by public officials including safety forces, can indicate what is the unwritten policy.

News reports can also shed light on what a local government's unwritten policies are. For example, does a police department contact ICE after determining that a driver involved in a misdemeanor traffic violation was an illegal alien or was the driver let go with no call to ICE? Did a mayor of a town hire illegal laborers for a city project? Does a mayor complain to the press that illegal alien workers were hired by ICE? These are all good indicators that an informal (unwritten) sanctuary policy exists.

One justification of creating sanctuary cities is often under the guise of protecting "immigrants." Illegal aliens are not immigrants -- immigrants come to the US legally, and maintain their legal status. When a person is illegally smuggled into the U.S. or violates their visa restrictions -- he/she is an immigrant or visitor, but an illegal alien subject to deportation.

Why do public officials pass sanctuary laws or establish unwritten "don't ask--don't tell" policies? There are a variety of reasons: To appease illegal immigration support groups; buckling to political pressure from illegal alien support groups who lobby local governments to implement formal or informal sanctuary policies; political contributions and support at election time; complacency, ignorance, or "don't ask--don't tell" attitudes; and purposeful resistance to existing US immigration law based upon an open-border philosophy that serves their economic, political, and cultural ethnocentric interests.

Sanctuary policies--official or otherwise, result in safe havens for illegal aliens and potential terrorists. Sanctuary policies allow criminal aliens to avoid deportation because they prevent local police from reporting alien criminals to ICE. Visit the [Victims of Illegal Aliens Memorial](#) and learn about the consequences sanctuary policies and lax enforcement have had on American families.

What can you do?--Demand change! Call your members of Congress (House and Senate) and demand an aggressive interior enforcement of US immigration laws. At the state and local level, ask your officials what your community's policies are in regards to illegal aliens. If your local government has an official or unofficial sanctuary policy, ask that they be repealed.

Might your city have a written or "unwritten" sanctuary policy? First, read the disclaimer below and view the list below.

Shovers, Marc

From: Emerson, James
Sent: Friday, August 31, 2007 2:51 PM
To: Shovers, Marc
Subject: Racine ordinance

http://www.journaltimes.com/articles/2007/08/31/local_news/doc46d798382fe74915828044.txt

The Journal Times

MAKE A CONNECTION

Friday, August 31, 2007

Local News

Immigrant rights group seeks Racine police pledge not to inquire about citizenship

Print Page

By Brent Killackey
Journal Times

Thursday, August 30, 2007 11:28 PM CDT

RACINE — An immigrant rights group wants the City Council to pass an ordinance that would prevent local police from asking about a person's citizenship status or requesting citizenship documents.

Voces de la Frontera said it fears police departments will become more involved in enforcing federal immigration laws, according to Maria Morales, coordinator of the group's Racine office. If that happens, it would create a climate of fear, she said.

Immigrants — legal or otherwise — wouldn't call police to report serious crimes or call the fire department to report a fire out of fear their actions could trigger deportation proceedings, Morales said. Even though she's a U.S. citizen, if she were stopped, Morales said she doesn't carry a birth certificate and would have a hard time proving her citizenship status.

Voces de la Frontera planned to meet last evening to work on specific ordinance language.

The Racine Branch of the National Association for the Advancement of Colored People and the Racine Interfaith Council were working with Voces de la Frontera, Morales said.

Diana Garcia, who was working on the Voces de la Frontera effort, approached Racine Police Chief Kurt Wahlen this week about creating a department policy precluding officers from asking about citizenship status.

Wahlen said he declined, noting he didn't want the police department involved in a political statement.

The police department doesn't deal with immigration matters unless federal officials request specific assistance regarding a particular person or business, Wahlen said, adding that he had no interest in working with immigration officials on door-to-door searches for illegal

immigrants.

Some reports linked aldermen Pete Karas, Ray DeHahn and Michael Shields to the so-called sanctuary ordinance effort. Both Karas and DeHahn said they hadn't been approached by Voces de la Frontera and had no knowledge of any proposed ordinance. Shields could not be reached Thursday.

Morales said Voces de la Frontera hadn't consulted with aldermen or city officials; that was planned for after development of a proposed ordinance.

Alderman Greg Holding said the group shouldn't bother asking him for support.

Holding said it's a pointless ordinance because citizenship status isn't something the Racine Police Department asks during routine contact with people.

"They're not barking up the wrong tree, they're barking up a tree that doesn't exist," Holding said.

Also, law enforcement should not hamstring itself from investigating any sort of crime and it may not be legal to order the police department to ignore federal law, Holding said.

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[\[x\] Close Window](#)

2007-2008

2005-2006 LEGISLATURE

LRB-49301
MES:whrs

3120/1

3/1/07

RMR

2007 BILL

2005 SENATE BILL 715

April 28, 2006 - Introduced by Senator GROTHMAN, cosponsored by Representatives NASS, PRIDEMORE, SUDER, VOS, JESKEWITZ, GUNDRUM and F. LASEE. Referred to Committee on Judiciary, Corrections and Privacy.

1

AN ACT ^{repeal} to create 66.0408 of the statutes; relating to: prohibiting local

2

ordinances ^{and resolutions} that prohibit immigration status inquiries.

the federal government about and reports for the presence of illegal aliens

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county (political subdivision) from enacting or enforcing an ordinance or resolution that prohibits an employee of that political subdivision from inquiring about the immigration status of an individual who is seeking or receiving public services provided by that political subdivision.

INS ANU

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3

SECTION 1. 66.0408 of the statutes is created to read:

illegal aliens

4

66.0408 Local ordinances, immigration status. (1) DEFINITIONS. In this

5

section:

ANS 1-5

6

(b) (a) "Immigration status" means satisfactory immigration status as that term

7

is used in 42 USC 1320b-7 (d).

SENATE BILL 715

CS
: reporting
: illegal aliens

1 ~~(a)~~ (b) "Political subdivision" means a city, village, town, or county.

2 (2) INQUIRIES ABOUT IMMIGRATION STATUS (a) A political subdivision may not
3 enact an ordinance or adopt a resolution ^{that prohibits} prohibiting an employee of that political
4 subdivision from ^{doing any of the following: #1.} inquiring about the immigration status of an individual seeking or
5 receiving public services from the political subdivision.

6 (b) If a political subdivision has in effect on the effective date of this paragraph
7 [revisor inserts date], an ordinance or resolution that is inconsistent with [✓] par. (a),
8 the ordinance or resolution does not apply and may not be enforced.

9 (END)

END
23

✓

✓

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3120/?ins
MES.....

INS ANL

~~4~~³⁰ and from notifying the federal government of the presence of illegal aliens in the political subdivision²

INS 1-5

(a) "Illegal alien" means an individual who is not a U.S. citizen or an alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law.

INS 2-5

2. Notifying the federal government of the presence of illegal aliens in the political subdivision.

Shovers, Marc

From: Emerson, James
Sent: Friday, October 12, 2007 9:12 AM
To: Shovers, Marc
Cc: Culotta, Jason
Subject: RE: Sanctuary City Prohibition Bill
Attachments: WI 07-31201 Antisanctuary IRLI redraft 4 Grothman.doc

Marc:

Thanks for your timely response. Mr. Hethmon has provided our office with a suggested, sample draft. I have attached it. However, I feel the suggested draft he provided may go further than what Senator Grothman and Representative Roth have intended. I include it in hopes it might provide some answers to some of your questions.

Point 1:

If you feel the definition of "illegal alien" is correct, then we will go with that.

Point 2 and 3:

In regards to immigration status, do you think 8 U.S.C. 1611 and 8 U.S.C. 1621 could be used or is appropriate? Further, does 8 U.S.C. 1621 provide a useable definition of public benefits?

Point 4:

I agree with you and your explanation.

Point 5:

In regards to bringing suit, would Section 4 of Mr. Hethmon's draft be appropriate?

I hope this answers some of your questions. Please let me know if you need more information, and I will try and provide it.

Jim Emerson
Senator Grothman's Office
266-7513

From: Shovers, Marc
Sent: Thursday, October 11, 2007 5:51 PM
To: Emerson, James
Subject: RE: Sanctuary City Prohibition Bill

Hi Jim:

I don't know if I'll have time to get to this next week because of the Special Session, but I'll do my best. In any event, the comments from Mr. Hethmon don't provide any guidance as to what he wants done or how the "defects" could be cured. It would be very helpful if he could provide me with some suggested language so the draft accurately reflects Sen. Grothman's intent. Mr. Hethmon's e-mail states the following:

The definitions of illegal alien and immigration status are probably defective

I draft in the areas of income taxation and county and municipal law and I'm not an expert in immigration

10/12/2007

law, but I don't see any problem with the definition of "illegal alien." How and why does he think the definition is defective, and what definition would he suggest? I'm certainly open to his suggestions.

The integration of the federal benefits verification statute at 42 USC 1320b-7 is also improper. The term "satisfactory immigration status" in the provision of Title 42 is not "immigration law" as found in Title 8; thus use of the Title 42 definition to define illegal alien would probably struck down, especially if it were applied to clause (2).2.

Mr. Hethmon's point may be well-taken, but I need to know what definition in Title 8 would be more precise. What definition of "immigration status" would be effective and meet the senator's intent? Is there a U.S. Code section that Mr. Hethmon could suggest as a better cross-reference?

The prohibition against verification for "receiving public services" is also defective. "Public services" is not defined, and left undefined, usually includes various "public benefits" which must be provided to illegal aliens by federal law.

Again, Mr. Hethmon may be correct about this, but I need to know how he would like the term defined so I can reflect accurately your intent.

There are two 'clause (b)'s in the bill; the second should be clause d. The reference in this last provision to "para (a)" is also defective, and in any case the definition of sanctuary ordinances to which it would apply is also very vague. Even if it wasn't vague, there is no enforcement mechanism specified.

This statement is incorrect. The bill creates statutory section 66.0408, with subsections (1) and (2); each subsection has a paragraph (b). Mr. Hethmon may have been confused because subsection (1) contains paragraphs (a), (b), and (c), followed by a subsection (2) which contains paragraphs (a) and (b). The reference in sub. (2) (b) to par. (a) is accurate.

Assuming the bill becomes law, who or what entity would you like to determine whether a political subdivision has violated the provisions of s. 66.0408 (2), and how would a violation be proven? It almost seems like someone (maybe the Attorney General?) would have to file suit against a political subdivision, and a judge would have to find that the statute has been violated. Is Mr. Hethmon aware of any other states in which a similar statute exists, and how it is enforced?

As soon as I receive a response to these questions I'll be able to determine how quickly I can redraft the bill. Thanks for your help, Jim, and thanks to Mr. Hethmon.

Marc

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-6948
e-mail: marc.shovers@legis.wisconsin.gov

From: Emerson, James
Sent: Thursday, October 11, 2007 1:03 PM
To: Shovers, Marc
Subject: Sanctuary City Prohibition Bill

10/12/2007

Marc:

You drafted LRB 3120, the prohibition on Sanctuary Cities, bill for Senator Grothman's office. We had a chance to run the draft by Michael Hethmon, a lawyer with the Immigration Reform Law Institute. He sent back the following remarks on the bill. I was wondering if you think you can rework the draft to solve some of the problems he thinks the draft might have.

Also, Senator Grothman would like to add an enforcement provision in the bill. Any city, town, county government that is found to have a sanctuary policy loses their shared revenue until they cease that policy. I realize you are busy right now, but was wondering if you will have time next week to work on this? If you have any questions, please feel free to contact me.

Jim Emerson
266-7513
Senator Grothman's Office

The definitions of illegal alien and immigration status are probably defective, and will make the statute subject to a successful ACLU challenge.

The integration of the federal benefits verification statute at 42 USC 1320b-7 is also improper. The term "satisfactory immigration status" in the provision of Title 42 is not "immigration law" as found in Title 8; thus use of the Title 42 definition to define illegal alien would probably struck down, especially if it were applied to clause (2).2.

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*Michael M. Hethmon
General Counsel
Immigration Reform Law Institute (IRLI)
"A public interest law firm representing citizens in immigration-related matters."
(202) 232-5590
mhethmon@irli.org*

DRAFT

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.0408 of the statutes is created to read:

66.0408, Communication between government agencies regarding immigration status.

(1). It shall be the public policy of the state of Wisconsin that officials and personnel of agencies of the state and agencies of all political subdivisions therein shall fully comply with and, to the full extent permitted by law, support the enforcement of federal law prohibiting the entry into, presence or residence in the United States of aliens in violation of federal immigration law.

(2). No political subdivision or agency of the state of Wisconsin, including any official, personnel or agent of such subdivision or agency, or an officer or other personnel of a law enforcement agency, may be prohibited or in any way restricted from sending, receiving, or maintaining information regarding the immigration status, lawful or unlawful, of any individual, or exchanging such information with any other federal, state or local government entity for any official purpose not otherwise prohibited by law.

(3). The [Secretary of State], after consultation with the United States Department of Homeland Security, may designate one or more state offices authorized to process and promptly respond to a request by an agency of the state, or of a political subdivision therein for verification of immigration status with the federal government, for any official purpose not otherwise prohibited by law. Such designated office or offices may accept and process requests for verification from agencies which would otherwise lack the capability to process such requests for verification.

SECTION 2. [00.0000] of the statutes is created to read:

[00.0000], Verification of lawful presence for public benefits.

(1). Except as provided in subsection (3) of this section or where exempted by federal law, every agency or a political subdivision of this state shall verify the lawful presence in the United States of any natural person [fourteen (14)] years of age or older who has applied for a state or local public benefit, as defined in 8 U.S.C., Section 1621, or for a federal public benefit, as defined in 8 U.S.C., Section 1611, that is administered by an agency or a political subdivision of this state.

(2). The provisions of this section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3). Verification of lawful presence under the provisions of this section shall not be required:

A. For any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

B. For assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C., Section 1396b(v)(3), of the alien involved and are not related to an organ transplant procedure;

C. For short-term, noncash, in-kind emergency disaster relief;

D. For public health assistance for immunizations with respect to diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease; or

E. For programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter as may be specified by the United States Secretary of Homeland Security, which:

a. deliver in-kind services at the community level, including through public or private nonprofit agencies,

b. do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient, and

c. are necessary for the protection of life or safety.

(4). Verification of lawful presence in the United States by the agency or political subdivision required to make such verification shall require that the applicant execute an affidavit under penalty of perjury that:

A. He or she is a United States citizen; or

B. He or she is a qualified alien under the federal Immigration and Nationality Act and is lawfully present in the United States.

The agency or political subdivision providing the state or local public benefit shall provide notary public services at no cost to the applicant.

(5). For any applicant who has executed the affidavit described in paragraph B of subsection (4) of this section, eligibility for benefits shall be verified through the Systematic Alien Verification for Entitlements (SAVE) Program operated by the United States Department of Homeland Security or an equivalent program designated by the United States Department of Homeland Security. Until such eligibility verification is made, the affidavit may be presumed to be proof of lawful presence for the purposes of this section.

(6). Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in an affidavit executed pursuant to subsection D of this section shall be subject to criminal penalties applicable in this state for fraudulently obtaining public assistance program benefits. If the affidavit constitutes a false claim of U.S. citizenship as defined in United States Code Title 18 Section 911, a complaint shall be filed by the agency requiring the affidavit with the United States Attorney for the applicable district, based upon the venue in which the affidavit was executed.

(7). Agencies or political subdivisions of this state may adopt variations to the requirements of the provisions of this section which demonstrably improve the efficiency or reduce delay in the verification process, or to provide for adjudication of unique individual circumstances where the verification procedures in this section would impose unusual hardship on a legal resident of Wisconsin.

(8). It shall be unlawful for any agency or a political subdivision of this state to provide any federal, state, or local, public benefit, as defined in United States Code Title 8 Sections 1611 or 1621, in violation of the provisions of this section.

(9). Each state agency or department which administers any program of state or local public benefits shall provide an annual report to [the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives] with respect to its compliance with the provisions of this section. Each agency or department shall

monitor the Systematic Alien Verification for Entitlements Program for application verification errors and significant delays and shall provide an annual public report on such errors and significant delays and recommendations to ensure that the application of the Systematic Alien Verification of Entitlements Program is not erroneously denying benefits to legal residents of Wisconsin. Errors shall also be reported to the United States Department of Homeland Security by [the Secretary of State].

SECTION 3. [00.0001] of the statutes is created to read:

[00.0001] Verification of lawful status for persons charged with a felony or driving under the influence.

- (1). When a person charged with a felony or with driving under the influence pursuant to [Wisconsin statutes section(s) xx.xxxx] is confined, for any period, in a jail or other detention center or facility, a reasonable effort shall be made to determine the citizenship status of the person so confined.
- (2). If the person is a foreign national, the agency confining the person shall make a reasonable effort to verify that the person has been lawfully admitted to the United States and, if lawfully admitted, that such lawful status has not expired. If verification of lawful status cannot be made from documents in the possession of the person confined, verification shall be made within forty-eight (48) hours through a query to the Law Enforcement Support Center of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security. If the lawful immigration status of the person confined cannot be verified, the agency confining the person shall notify the United States Department of Homeland Security.
- (3). For the purpose of determining the grant of or issuance of bond, it shall be a rebuttable presumption that a person whose citizenship status has been verified pursuant to subsection (2) of this section to be a foreign national who has not been lawfully admitted to the United States is at risk of flight.

SECTION 4. [00.0002] of the statutes is created to read:

[00.0002]. Private right of action.

In addition to any other remedy which may be available under the laws of the State of Wisconsin, a natural or legal person lawfully domiciled in this state and aggrieved by one or more specific instances of failure of a agency of the state or of a political subdivision therein to comply with a requirement of this ordinance, who has exhausted the administrative procedure, if any, provided by such agency to remedy such grievance, may file for a [writ of mandamus] to compel the non-cooperating agency to comply with such requirement.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-31201
MES:jld:rs

RMA

2007 BILL

D-NOTE

in 10-15-07

due Fri. 10-19

reagan

1 AN ACT to create 66.0408 of the statutes; relating to: prohibiting local
2 ordinances and resolutions that prohibit immigration status inquiries and
3 reports to the federal government about the presence of illegal aliens.

and authorizing
a private
right of
action and
penalties

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county (political subdivision) from enacting or enforcing an ordinance or resolution that prohibits an employee of that political subdivision from inquiring about the immigration status of an individual who is seeking or receiving public services provided by that political subdivision and from notifying the federal government of the presence of illegal aliens in the political subdivision.

ANS
AUC

For further information see the ^{state and} local fiscal estimate, which will be printed as an appendix to this bill.

Fix
Component

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 66.0408 of the statutes is created to read:

5 **66.0408 Local ordinances, immigration status, illegal aliens. (1)**

6 DEFINITIONS. In this section:

BILL

SECTION 1

and who is not

1 (a) "Illegal alien" means an individual who is not a U.S. citizen ~~or an alien~~
2 lawfully ^{present} admitted for permanent residence or otherwise residing in the United
3 States ~~under color of law.~~

4 *MAJUS* (b) "Immigration status" means ^{Satisfactory} immigration status ~~as that term~~
5 ~~is used in 42 USC 1320b-7(c)~~ ^{under which an individual who is not}
6 ~~a U.S. citizen is lawfully present in this~~ ^{country}
7 *MOUS* (c) "Political subdivision" means a city, village, town, or county.

7 (2) INQUIRIES ABOUT IMMIGRATION STATUS; REPORTING ILLEGAL ALIENS. (a) A
8 political subdivision may not enact an ordinance or adopt a resolution that prohibits
9 an employee of that political subdivision from doing any of the following:

10 *MOUS* 1. Inquiring ~~about the~~ immigration status ^{whether} of an individual seeking or receiving
11 public services from the political subdivision. ^{has satisfactory}

12 2. Notifying the federal government of the presence of illegal aliens in the
13 political subdivision.

14 (b) If a political subdivision has in effect on the effective date of this paragraph
15 [revisor inserts date], an ordinance or resolution that is inconsistent with par. (a),
16 the ordinance or resolution does not apply and may not be enforced.

INS
2-16
17

(END)

d-note
↓

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3120/2ins
MES:jld:rs

✓ and the Department of Administration

INS ANL

The bill also authorizes an elector of a political subdivision ✓ to file a writ of mandamus ✓ with the circuit court to require compliance with the requirements created by the bill if the elector is aggrieved by the failure of the political subdivision to comply with the requirements. If a writ of mandamus is issued to compel the political subdivision to comply with the requirements, the Department of Revenue is prohibited from making any shared revenue payments to the political subdivision until the writ is lifted. ✓

INS 2-16

(3) ✓ PRIVATE RIGHT OF ACTION. If an elector of this state is aggrieved by one or more specific instances of failure of a political subdivision ✓ to comply with the requirements of sub. (2) (a), ✓ the elector may file a writ of mandamus with the circuit court for the county where the instances of failure to comply with sub. (2) (a) occurred to compel the non-complying political subdivision to comply with the requirements.

(4) ✓ PENALTY. If a circuit court issues a writ of mandamus under sub. (3), the department of revenue ✓ may not make any ~~shared revenue~~ payments to the political subdivision under subch. I of ch. 79 ✓ until the writ is lifted.

and the department of administration ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3120/2dn
MES:jld:rs

date

Senator Grothman:

I made a slight change in the definitions of "illegal alien" and "satisfactory immigration status" in this version of the bill. I used the concept of being "lawfully present" in the United States, based on the materials submitted by Mr. Michael Hethmon through Jim Emerson of your staff. I also based the new s. 66.0408 (3), the private right of action, on Mr. Hethmon's materials. Is this OK?

I did not define "public services" as Mr. Hethmon suggested, because it seems to me that not defining the term is consistent with your intent. Mr. Hethmon was concerned that, by not defining the term, it could include some benefits that an illegal alien is entitled to under federal law.

This may be true, but my understanding is that your intent is to prohibit a political subdivision from preventing its employee from inquiring whether an individual has satisfactory immigration status. To accomplish your intent, it seems irrelevant to me whether the public benefit is allowed to an illegal alien; the crucial inquiry concerns the individual's immigration status, not whether an illegal alien is entitled to the benefit by federal law. Therefore, a definition of "public services" that limits its scope seems like it would limit the occasions under which an inquiry about immigration status could occur.

Please let me know if you have any questions about this version of the ^{bill} draft or if I have misconstrued your intent.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3120/2dn
MES:jld:pg

October 16, 2007

Senator Grothman:

I made a slight change in the definitions of "illegal alien" and "satisfactory immigration status" in this version of the bill. I used the concept of being "lawfully present" in the United States, based on the materials submitted by Mr. Michael Hethmon through Jim Emerson of your staff. I also based the new s. 66.0408 (3), the private right of action, on Mr. Hethmon's materials. Is this OK?

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This may be true, but my understanding is that your intent is to prohibit a political subdivision from preventing its employee from inquiring whether an individual has satisfactory immigration status. To accomplish your intent, it seems irrelevant to me whether the public benefit is allowed to an illegal alien; the crucial inquiry concerns the individual's immigration status, not whether an illegal alien is entitled to the benefit by federal law. Therefore, a definition of "public services" that limits its scope seems like it would limit the occasions under which an inquiry about immigration status could occur.

Please let me know if you have any questions about this version of the bill or if I have misconstrued your intent.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3120/2
MES:jld:pg

RMR

2007 BILL

Regen

1 AN ACT to create 66.0408 of the statutes; relating to: prohibiting local
 2 ordinances and resolutions that prohibit immigration status inquiries and
 3 reports to the federal government about the presence of illegal aliens and
 4 authorizing a private right of action and penalties.

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county (political subdivision) from enacting or enforcing an ordinance or resolution that prohibits an employee of that political subdivision from inquiring about the immigration status of an individual who is seeking or receiving public services provided by that political subdivision and from notifying the federal government of the presence of illegal aliens in the political subdivision. The bill also authorizes an elector of a political subdivision to file a writ of mandamus with the circuit court to require compliance with the requirements created by the bill if the elector is aggrieved by the failure of the political subdivision to comply with the requirements. If a writ of mandamus is issued to compel the political subdivision to comply with the requirements, the Department of Revenue and the Department of Administration is prohibited from making any shared revenue payments to the political subdivision until the writ is lifted.

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.0408 of the statutes is created to read:

2 **66.0408 Local ordinances, immigration status, illegal aliens. (1)**

3 DEFINITIONS. In this section:

4 (a) "Illegal alien" means an individual who is not a U.S. citizen and who is not
5 lawfully present in the United States.

6 (b) "Political subdivision" means a city, village, town, or county.

7 (c) "Satisfactory immigration status" means immigration status under which
8 an individual who is not a U.S. citizen is lawfully present in this country.

9 (2) INQUIRIES ABOUT IMMIGRATION STATUS; REPORTING ILLEGAL ALIENS. (a) A
10 political subdivision may not enact an ordinance ^{or} adopt a resolution ^{or establish a} that prohibits
11 an employee of that political subdivision from doing any of the following: ^{policy}

12 1. Inquiring whether an individual seeking or receiving public services from
13 the political subdivision has satisfactory immigration status.

14 2. Notifying the federal government of the presence of illegal aliens in the
15 political subdivision.

16 (b) If a political subdivision has in effect on the effective date of this paragraph
17 [revisor inserts date], an ordinance or resolution that is inconsistent with par. (a),
18 the ordinance or resolution does not apply and may not be enforced.

19 (3) PRIVATE RIGHT OF ACTION. If an elector of this state is aggrieved by ^{the} ~~one~~
20 ^{more specific instances of} failure of a political subdivision to comply with the
21 requirements of sub. (2) (a), the elector may file a writ of mandamus with the circuit

BILL

1 court for the county where the ~~instance~~^g failure to comply with sub. (2) (a) [✓] occurred
2 to compel the noncomplying political subdivision to comply with the requirements.

3 ~~(4) PENALTY. If a circuit court issues a writ of mandamus under sub. (3), the~~
4 ~~department of revenue and the department of administration may not make any~~
5 ~~payments to the political subdivision under subch. I of ch. 79 until the writ is lifted.~~

6 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3120/3
MES:jld:rs

2007 BILL

1 **AN ACT to create** 66.0408 of the statutes; **relating to:** prohibiting local
2 ordinances, resolutions, and policies that prohibit immigration status inquiries
3 and reports to the federal government about the presence of illegal aliens and
4 authorizing a private right of action.

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county (political subdivision) from enacting or enforcing an ordinance, resolution, or policy that prohibits an employee of that political subdivision from inquiring about the immigration status of an individual who is seeking or receiving public services provided by that political subdivision and from notifying the federal government of the presence of illegal aliens in the political subdivision. The bill also authorizes an elector of a political subdivision to file a writ of mandamus with the circuit court to require compliance with the requirements created by the bill if the elector is aggrieved by the failure of the political subdivision to comply with the requirements.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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BILL

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6 (c) "Satisfactory immigration status" means immigration status under which
7 an individual who is not a U.S. citizen is lawfully present in this country.

8 **(2) INQUIRIES ABOUT IMMIGRATION STATUS; REPORTING ILLEGAL ALIENS.** (a) A
9 political subdivision may not enact an ordinance, adopt a resolution, or establish a
10 policy a resolution that prohibits an employee of that political subdivision from doing
11 any of the following:

12 1. Inquiring whether an individual seeking or receiving public services from
13 the political subdivision has satisfactory immigration status.

14 2. Notifying the federal government of the presence of illegal aliens in the
15 political subdivision.

16 (b) If a political subdivision has in effect on the effective date of this paragraph
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19 **(3) PRIVATE RIGHT OF ACTION.** If an elector of this state is aggrieved by the of
20 failure of a political subdivision to comply with the requirements of sub. (2) (a), the
21 elector may file a writ of mandamus with the circuit court for the county where the
22 failure to comply with sub. (2) (a) occurred to compel the noncomplying political
23 subdivision to comply with the requirements.

24

(END)