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BR 430/Kentucky's Family Separation Bill – A bill has been pre-filed by Senator Danny Carroll that would force Kentucky municipalities to spend their limited time and resources on federal immigration enforcement. The bill would force local law enforcement to blindly carry out requests by federal immigration authorities, putting them at risk of costly lawsuits for constitutional violations. It would increase racial profiling of our fellow Kentuckians and put them at greater risk for deportation—meaning that more Kentucky families will be both temporarily and permanently separated, leading to more kids in our foster care system.

What does the bill do? This bill has three main components, banning sanctuary policies, requiring all law enforcement and employees of public agencies to engage in immigration enforcement, and establishing a new right of action.

- 1.) Sanctuary Cities – BR 430 defines a sanctuary policy as an order, ordinance, resolution, or policy, whether written or unwritten that limits a law enforcement agency or public agency from communicating with federal agencies on matters related to immigration.
- 2.) Federal Immigration Enforcement - This bill requires almost all employees of public agencies to engage in immigration enforcement. The bill makes this clear in Section 1, subsection 3 by stating: *“All law enforcement officials, representatives, agents, and employees of a law enforcement agency, and public officials, representatives, agents, and employees of a public agency shall use their best efforts, considering available resources, to support the enforcement of federal immigration law.”* The ACLU-KY does not have a clear understanding of how this language will be interpreted but fears it could place a substantial burden on resource-strapped agencies to engage in complicated immigration enforcement.
- 3.) Right of Action – Section 2, subsection 2 states, *“The Governor, Attorney General, or any state constitutional officer may bring an action to enforce the provisions of Section 1 of this action through injunctive action.”* This means that a constitutional officer that believes this law is not being adequately enforced has the authority to file a challenge against a public agency or employee thereof.



Who are employees of a public agency? The bill relies on the definition of a public agency provided by KRS 61.870 which includes but is not limited to employees of;

- All state or local legislative boards,
- Every state or local court,
- Every state or local government agency,
- **Anybody which within any fiscal year, derives at least 25% of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds, etc...**

The ACLU-KY is very concerned about the breadth of employees that would be responsible for enforcing the law, especially considering the vulnerable populations served by people working for many of Kentucky's public agencies. Public agency employees could include child protective services, hospital employees, the staff at domestic violence shelters, or even employees within our foster care system.

Are there exceptions to the law? There are two primary exceptions to the enforcement of this bill. Section 1, subsection 5(a) states that the law does not apply to school districts, district boards of education, public charter schools or anyone who works in any of those institutions including school resource officers. Section 5(b) goes on to say this law does not apply to the release of information contained in educational records, except in conformity with the Family Education Rights and Privacy Act (FERPA).

Additionally, the bill says that law enforcement officials and employees of the law enforcement agency *may* adopt a policy that restricts when victims or witnesses of a crime can be asked about their immigration status. The exception for victims and witnesses of crime falls far short of offering meaningful protection for two reasons; first, it is optional and second, the enhanced immigration enforcement activities that could be envisioned under this bill could have a far-reaching chilling effect – especially if agencies including sexual assault programs are asked to enforce immigration law.

How will immigration status be verified? Section 1, subsection 4(a) of the bill says that verified proof of a person's status can be established by a "Kentucky drivers' license or similar government-issued identification." Other than the language in Section 1, subsection 4(a) there is little guidance on how law enforcement and public agency employee is going to be trained to determine someone's immigration status and whether or not they are lawfully present. Immigration status is fluid and can be complicated – there are over 60 different visas ranging from visas for athletes, diplomats, exchanges students, foreign military personnel, physicians,



agricultural workers, Iraqis who worked on behalf of the U.S Government and many others. Many immigration documents look very different and would be difficult to verify the authenticity of without training.

How will this affect DACA recipients? DACA stands for Deferred Action for Childhood Arrivals and was an executive action under the Obama administration that granted kids and people that entered the country as children temporary relief from deportation. Right now DACA recipients can get a Kentucky drivers' license so they would be able to comply with the law. Unfortunately, because DACA has not been updated fewer and fewer Kentucky kids are eligible, for example, a number of Kentucky kids graduating high school this year are ineligible because they have already aged out of the program. The Trump administration is actively working to eliminate DACA for everyone, which would make thousands of Kentuckians, and specifically, Kentucky kids, vulnerable to lengthy detention stays separated from their family and deportation.

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