



Written by [Warren Mass](#) on October 9, 2017

ICE Acting Director: California Sanctuary State Law Will Force “At-large” Arrests

We [reported on October 6](#) that Governor Jerry Brown signed the California Values Act into law on October 5, prohibiting state and local agencies from enforcing immigration laws or from working with immigration enforcement agencies — thereby making California a “sanctuary state.” The next day, ICE (U.S. Immigration and Customs Enforcement) Acting Director Tom Homan posted a news release providing his department’s response to the bill, which takes effect next year.



Homan began his statement strongly, noting, “Governor Jerry Brown’s decision to sign SB54 and make California a sanctuary state for illegal aliens — including those who have committed crimes — will undermine public safety and hinder ICE from performing its federally mandated mission. The governor is simply wrong when he claims otherwise.”

Homan continued, “SB54 will negatively impact ICE operations in California by nearly eliminating all cooperation and communication with our law enforcement partners in the state.”

Perhaps the part of Homan’s statement that received the most attention in the media, however, was: “ICE will have no choice but to conduct at-large arrests in local neighborhoods and at worksites, which will inevitably result in additional collateral arrests, instead of focusing on arrests at jails and prisons where transfers are safer for ICE officers and the community. ICE will also likely have to detain individuals arrested in California in detention facilities outside of the state, far from any family they may have in California.”

California’s *Mercury News* reported that Homan’s statement was immediately criticized by the author of SB 54, Senate Pro Tem Kevin de León. “The Trump administration is once again making heavy-handed threats against California because we won’t help them tear apart families and our economy in the process,” he said. “The acting ICE director’s inaccurate statement exemplifies the fear-mongering and lies that guide this administration.”

The *Mercury News* also quoted Bill Whalen, described as a longtime GOP strategist who is now a fellow at Stanford’s Hoover Institution, who said state and federal laws — such as marijuana legislation — often conflict. “The question is how far can the state of California push the Trump administration,” Whalen said, “because to be honest, SB 54 is an openly defiant act.”

Earlier this year, when SB 54 was being debated, Fox News reported, “Many of California’s largest cities, Los Angeles, San Francisco and Sacramento, already have sanctuary policies that prohibit police from cooperating with immigration officials. The state is already home to an estimated 2.3 million illegal immigrants. SB 54 would extend those policies statewide, prohibiting police officers and jailers from arresting or detaining people solely for immigration violations unless a judge issues a warrant.”



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As was noted [in August](#), one of Donald Trump's first actions as president was to issue an executive order that targeted sanctuary cities by directing local and state agencies to enforce existing immigration laws or face losing federal funds. Trump's order immediately produced results, as it prompted a number of self-proclaimed sanctuary cities to reverse their policies, including Miami-Dade, Florida; Dayton, Ohio; Saratoga, New York; Finney County, Kansas; and Bedford, Pennsylvania.

NBCNews published an article on October 8 that compared the status of "sanctuary city" policies in three states that account for nearly half of the approximately 11 million illegal aliens in this country. They are California, with 2.35 million; Texas, with 1.65 million; and Florida, with 850,000.

The report noted that last week, Brown escalated the issue beyond the "sanctuary city" level by signing the law that will make California a "sanctuary state."

The article contrasted California's policy with that of Texas, where Republican Gov. Greg Abbott signed a tough anti-sanctuary cities law in May. The law, SB 4, would allow for local officials to be fined up to \$25,000 a day or to be removed from office for not complying with federal immigration detention and enforcement measures. Under the Texas law, local officials could also be charged with misdemeanor crimes for not complying with federal detention requests.

However, noted NBCNews, the measure, designed to put an end to the sanctuary policies of the relatively few liberal cities in Texas such as Austin, was blocked from taking full effect by a federal court in August.

An article in the *Washington Times* on August 30 reported that less than 30 hours before the Texas law was to take effect, U.S. District Judge Orlando Garcia blocked parts of the law, ruling that the state cannot attempt to punish sanctuary cities for refusing to turn illegal aliens over to federal authorities for deportation.

However, Garcia left in place the part of the law that allows police to determine the legal status of those they encounter during their duties. He said as long as the checks don't prolong the encounter, they are presumed to be constitutional.

Abbott vowed an immediate appeal and said Supreme Court precedent is on the state's side.

The NBCNews article noted that Florida is "stuck in the middle" between the very different sanctuary policies of California and Texas. It observed that The Republican-controlled state House passed a bill in April that would have banned sanctuary cities and, like the Texas law, would have imposed severe financial penalties on local officials who did not comply with federal immigration orders. However, the bill has not been taken up in the state Senate.

The article also noted that following the White House's threatened crackdown earlier this year, Miami Mayor Carlos Gimenez ordered Miami-Dade County officials to honor federal detainer requests reversing a policy that had existed since 2013. Miami is the only large U.S. city known to have made such a reversal.

Meanwhile, it will be interesting to see how the legal battle between the Trump administration and California plays out, once the state's sanctuary law takes effect in January.

California State Attorney General Xavier Becerra and San Francisco City Attorney Dennis Herrera have already filed separate federal lawsuits against the Trump administration, challenging the executive order to withhold federal funds from sanctuary cities, asserting that the Trump administration's efforts are "unauthorized and unlawful." We can expect that they will also add the state to amended versions of



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those lawsuits.



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