

Sanctuaries Under Fire

Some states are reining in cities that protect undocumented immigrants

At least eight states are considering legislation to crack down on about 300 so-called sanctuary cities, taking up a fight that has lost momentum in Congress.

While there is no formal definition for such communities, they generally embrace immigrant-friendly policies such as prohibiting police officers from asking about the immigration status of people they detain or refusing federal requests to hold them for up to two additional days to give U.S. Immigration and Customs Enforcement officials time to take custody and begin deportation proceedings.

Though such policies have been debated for several years, the issue gained attention this summer after an unauthorized immigrant with five prior deportations was arrested and charged with fatally shooting Kate Steinle in San Francisco.

Republicans took up the cause in Congress, but a House bill passed in July was denounced as toothless by advocacy groups opposing sanctuary city policies. In the Senate, Democrats blocked a bill from coming to the floor for a vote.

“I don’t think it’s entirely surprising there’s a whole bunch of states that are latching on to a sensationalized issue,” says Jonathan Blazer, a lawyer with the American Civil Liberties Union. “It is a good question as to whether or not [states] will

have more success in actually advancing the agenda.”

In the final week of their legislative session at the end of September, North Carolina lawmakers took an immigration bill that had been dormant since April, added a sanctuary cities provision, and whisked it through both chambers, passing it the last night of the session.

The law bans local policies preventing a city from fully cooperating with the federal gov-

ernment. While the bill was debated in the Senate, the rushed process left little time for input or analysis from outside groups, says Bill Rowe, director of advocacy with the North Carolina Justice Center, which opposes the law, along with the North Carolina Council of Churches and the North Carolina chapters of the AFL-CIO, the NAACP and the American Civil Liberties Union.

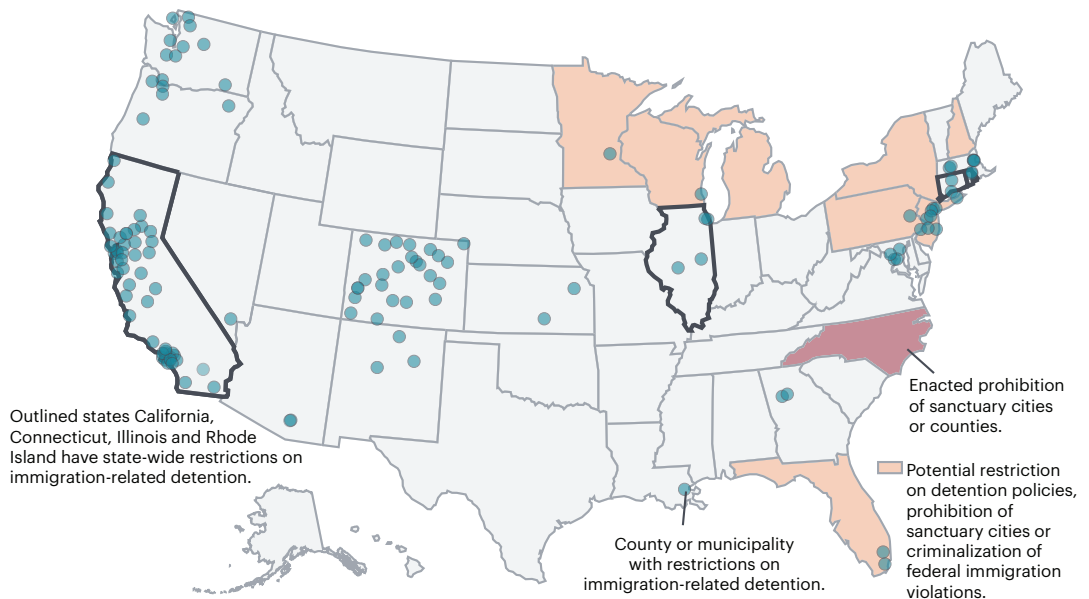
“The process was not here for

people to have a reasoned discussion of what was being done and why in such a short period of time,” Rowe says.

Such laws can place cities and local law enforcement in a difficult spot between the state governments requiring cooperation with U.S. detention requests, called detainers, and federal judges who have ruled that detainers are voluntary requests. Some cities that have held immigrants on detainers have been

Welcome Mats and ‘Keep Out’ Signs

With heightened attention on so-called sanctuary cities, at least eight states are considering proposals that, like a North Carolina law enacted in September, would force municipalities or counties to comply with a U.S. Immigration and Customs Enforcement request to detain individuals who lack documentation of legal status.



Source: State legislatures, Immigrant Legal Resource Center

Randy Leonard/CQ Roll Call Graphic



hit with lawsuits, Blazer says.

“It complicates the situation,” Blazer says. “We’re going to see repeated, time and time again, law enforcement objections arising because they’re being put in between a rock and a hard place.”

While Texas Gov. Greg Abbott has said he does not intend to call legislators back to Austin before 2017, he vowed in a letter earlier this month to Dallas County Sheriff Lupe Valdez to strip criminal justice grants from sheriff’s departments that do not honor detainees.

“I simply will not allow [Criminal Justice Division] grant funding administered by this office to support law enforcement agencies that refuse to cooperate with a federal law enforcement program that is intended to keep dangerous criminals off Texas streets,” Abbott said in the letter.

The Texas House’s State Affairs Committee will hold a hearing on the issue in the next month, and the Florida House’s Civil Justice Subcommittee advanced a bill Nov. 18 to increase penalties for unauthorized immigrants who are present in the state after being marked for deportation.

Four state legislatures still in session — Michigan, New Jersey, Pennsylvania and Wisconsin — also introduced legislation to crack down on sanctuary cities, but as most state legislatures had already gaveled out when Steinle was shot in July, advocates are expecting more interest when

lawmakers convene next year.

“Based on inquiries we’ve had from state legislatures around the country, other states will be interested in taking up legislation like North Carolina to protect the safety of the community,” says Ira Mehlman, media director for the Federation for American Immigration Reform, which supports additional limits on immigration.

“There will be a response to the fact Congress punted on this,” Mehlman says.

Blazer anticipates the introduction of similar bills in Georgia, Kansas, New Hampshire and Tennessee when their legislatures reconvene in 2016. Several other states, including Minnesota and New York, saw bills introduced in early 2015 that could carry over to the 2016 session.

While many supporters of such legislation argue the measures are a matter of public safety, Republican state Sen. Rick Jones, who co-sponsored the Michigan bill and chairs the committee reviewing it, says sanctuary cities touch on larger concerns about the effects of the country’s estimated 11 million unauthorized immigrants.

“People are very worried about an illegal population coming in and taking away opportunities and sucking up welfare that is paid for by the taxpayers,” Jones says. “People see this more as a prevention measure rather than getting rid of people here now working underground. ... If the word gets around that ‘Hey it’s a sanctuary city, you can live in the city [and] no one is going to toss you out,’ then you have an attraction to this illegal population.”

— Emily Wilkins



Spencer Platt/Getty Images

Mayors: Give Me Your Tired, Your Poor, Your Huddled Masses

More than 30 governors have urged the Obama administration not to let Syrian refugees into their states. Many mayors see the issue differently. Sixty-two of them, led by Baltimore Mayor Stephanie Rawlings-Blake, president of the U.S. Conference of Mayors, urged the president to welcome the refugees in a Nov. 20 letter.

“Some have suggested that Congress should halt the entry of refugees, particularly Syrian refugees, to this nation. We urge you to resist this call and take no action that will prevent Syrian refugees from entering the United States after they have completed the screening process.”

The letter follows one in September, organized separately and signed by 18 mayors, urging the president to designate their cities as welcoming places for Syrian refugees. But after the Nov. 13 Paris terror attacks, some of those mayors indicated in news releases and social media posts that they were perhaps backing away from that request.

In the immediate aftermath of the attacks, many of the mayors followed an evolutionary path modeled by Mayor Bill de Blasio of New York: On Nov. 17 de Blasio issued a statement saying he’d discuss the issue with Police Commissioner Bill Bratton. He later declared New York “a proud immigrant city” that wouldn’t turn away refugees.

On Nov. 20, he was among those signing the letter from the mayors’ conference, which concluded: “Our nation has always been a beacon of hope for those seeking peace and protection from persecution. We urge you to take no action that will jeopardize this rich and proud heritage.”

— Hugh T. Ferguson

Death and Taxes ... and Medicaid Costs

Holocaust survivors living in New Jersey can rest easy that their reparation payments from the German government won't be touched by the state when they pass away.

New Jersey Gov. Chris Christie signed a bill earlier this month that stops the state from seizing Holocaust survivor compensation from people who had received Medicaid benefits for long-term medical care. Under a 1993 federal law, states must recover such expenses from the estates of beneficiaries ages 55 and older when they die.

While there are an estimated 1,600 Holocaust survivors living in the Garden State, the law is the first in the country that shies away from tapping their survivor funds for Medicaid asset recovery. New Jersey Assemblyman Gary S. Schaer, a Democrat, says he'd been trying to get the bill passed since January 2008.

"We hope it will give them less to be concerned about as they're in the twilight of their years," Schaer says. "Hopefully it will give them a reaffirmed conviction that government can be a force of positive change, especially after their own personal experience with the Nazis and fascists."

New Jersey's law is an example of the ways states in recent years have been attempting to dial back how they do Medicaid estate recovery.

States can go after all kinds of assets to recoup Medicaid expenses. Ten states recover for costs beyond long-term care such as doctor or specialist visits, according to a Families USA



BUDGET CONSCIOUS: Brown is wary of losing state revenue if California's estate recovery program is overhauled.

report. But the recovery process is alarming news for millions of new beneficiaries who signed up for the joint federal-state insurance program for the poor through the 2010 health care law's Medicaid expansion.

There are some protections though. States can't recover costs for a deceased beneficiary from a surviving spouse, from children under 21 or from a child who is blind or has a disability regardless of age. State legislatures define what costs can be recouped, make exceptions for specific populations and define what assets can be recovered.

While waivers prevent beneficiary survivors from losing their homes right away, the process penalizes low-income residents simply for being poor, says Patricia McGinnis, executive director for California Advocates for Nursing Home Reform.

"It's a really screwed up sys-

tem," McGinnis says.

State officials don't necessarily find home or asset recovery a pleasant process either, says Matt Salo, executive director for the National Association of Medicaid Directors. While states like California and New Jersey have been criticized for their aggressive approaches, hard decisions must be made about how else they would fill that budget hole, he says.

Salo says it comes down to states following federal law and keeping Medicaid solvent. "States are trying to find a balance of meeting the needs of the program ... while trying not to scare people away with the idea 'we're going to nickel and dime you once you're gone,'" he says.

But some states have been successful in pulling back on estate recovery. Oregon and Washington, for example, scrapped collecting on services

beyond long-term care costs.

"An outdated policy was producing significant concern from families newly eligible for Medicaid," Dorothy Teeter, Washington Health Care Authority director, said in 2013 after Medicaid was expanded in the state. "Changing this old policy was simply the right the thing to do after hearing from many in our community who were questioning whether to sign up for coverage at all."

California lawmakers will head into their 2016 legislative session considering a bill to limit the state's Medicaid estate recovery to only what's required under federal law; limit home recoveries to properties worth a certain amount; end estate recovery from surviving spouses of deceased beneficiaries; cap interest rates on voluntary home liens; and allow beneficiaries to see the total Medi-Cal expenses that can be recovered when they die. A state Senate committee estimates California will lose \$50 million in annual revenue if the bill becomes law.

It's not the first time California lawmakers have considered overhauling the Medi-Cal estate recovery program. A similar measure in 2014 was vetoed by Democratic Gov. Jerry Brown.

"Allowing more estate protection for the next generation may be a reasonable policy goal," Brown said in his veto statement. "The cost of this change, however, needs to be considered alongside other worthwhile policy changes in the budget process next year."

—Marissa Evans