

Massachusetts House of Representatives Bill Summary

Bill #: H.2309

Title: An Act relative to sanctuary cities and towns

Sponsor: Rep. Marc Lombardo

Committee: Municipalities and Regional Government

Hearing Date: July 22, 2025

Prior History: Refile of H.2079-Study

Current Law: On July 24, 2017 in *Lunn v. Commonwealth* (477 Mass.517; 78 N.E.3d 1143; 2017 Mass. LEXIS 544) the Supreme Judicial Court ruled:

“What the Federal Department of Homeland Security asks for when it requests in a civil immigration detainer that a Massachusetts custodian hold a person for up to two days after he or she would otherwise be entitled to release from State custody constitutes an arrest as a matter of Massachusetts law.”

The court concluded that court officers in Massachusetts, who have the same power to arrest while on court house premises as Massachusetts police officers lack authority under either Massachusetts common law or Massachusetts statutory law to arrest an individual pursuant to a request contained in a Federal civil immigration detainer to hold that individual for up to two days after he or she would otherwise be entitled to release from State custody: further, the court declined to adopt, as a matter of Massachusetts law, the theory of inherent authority to carry out such detainer requests as a basis for authorizing civil immigration arrests.”

Under Massachusetts common law, police officers have the authority to make warrantless arrests, but only for criminal offenses, and then only in limited circumstances.

Chapter 39 of MGL contains general provisions governing municipal government.

Summary: This act amends Chapter 39 of the General Laws by adding a new section.

Section 1 of this new section inserts definitions for the terms illegal immigrant, political subdivision, and satisfactory immigration status.

- Illegal immigrant shall refer to any individual who is not a United States citizen and who is not lawfully present in the United States.
- Political subdivision means any city, town, or country
- Satisfactory immigration status refers to an immigration status under which an individual who is not a United States citizen is lawfully present in this country.

Section 2 of this new section prohibits a political subdivision from enacting an ordinance, adopting a resolution, or establishing a policy that prohibits an employee of that political subdivision that does the following:

- Inquires whether an individual who has been lawfully detained or arrested has satisfactory immigration status
- With regard to the immigration status of any individual who has been lawfully detained or arrested, sends the information to, or requests or receives information from, the federal government. Such information may include information regarding an individual's place of birth, and such information may be maintained by the political subdivision and may be exchanged with another political subdivision, another state, and with the federal government.
- Assists or cooperates with a federal immigration officers, including the provision of enforcement assistance
- Permits a federal immigration officer to enter and conduct immigration enforcement activities in any building or facility under the control of the political subdivision

This section holds that if a political subdivision has in effect on the effective date of this legislation, an ordinance, resolution, or policy that is inconsistent with this section, the ordinance, resolution, or policy does not apply and may not be enforced.

Section 3 (a) of this new section states that if the attorney general, a district attorney, or a police chief believes that a political subdivision is failing to comply with section 2, the attorney general, or the district attorney or police chief with the appropriate jurisdiction, may file a writ of mandamus with the Superior Court, for the county where the alleged failure to comply with section 2 occurred to compel the noncomplying political subdivision to comply with the requirements.

Section 3(b) of this new section holds that if the court finds that the political subdivision has failed to comply with section 2, the court shall

notify the Department of Revenue of its finding of noncompliance and the Department of Revenue shall reduce the amount of unrestricted government aid payments to the political subdivision in the following year by one of the following amounts for each day after the filing of an action under section 3(a) that the political subdivision was noncompliant:

- If the population of the political subdivision is less than 10,000, \$2,000
- If the population of the political subdivision is at least 10,000 but less than 100,000, \$5,000
- If the population of the political subdivision is at least 100,000 but less than 250,000, \$10,000
- If the population of the political subdivision is 250,000 or more \$15,000