



5-1-2021

# Making Maryland a Sanctuary State – The Battle of Immigration Enforcement Throughout Maryland

Naseam Jabberi

Follow this and additional works at: <https://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

### Recommended Citation

Jabberi, Naseam (2021) "Making Maryland a Sanctuary State – The Battle of Immigration Enforcement Throughout Maryland," *University of Baltimore Law Forum*: Vol. 51 : No. 2 , Article 3.

Available at: <https://scholarworks.law.ubalt.edu/lf/vol51/iss2/3>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact [hmorrell@ubalt.edu](mailto:hmorrell@ubalt.edu).

## COMMENT

---

### MAKING MARYLAND A SANCTUARY STATE – THE BATTLE OF IMMIGRATION ENFORCEMENT THROUGHOUT MARYLAND

By: Naseam Jabberi<sup>1</sup>

#### I. INTRODUCTION

In recent years, issues of immigration have become a main topic of discussion throughout the United States. With President Trump basing a major campaign point on an idea of mass deportation, the concept of immigration enforcement became a front and center issue for many individuals.<sup>2</sup> In one of the President's campaign announcements, he made it clear that immigrants, specifically from Mexico, were a cause of issue, stating "[t]hey're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists."<sup>3</sup> One way the controversy from these statements manifested themselves was through the discussion of sanctuary states. Many individuals and legislative bodies began to look for solutions to what they believed to be issues of public safety that would be caused by these new enforcement efforts.<sup>4</sup> Beyond the political responses, however, individuals have moved for sanctuary status as a response to studies which have shown benefits such as stronger economic rates in sanctuary jurisdictions throughout the country.<sup>5</sup>

---

<sup>1</sup> Naseam Jabberi, J.D. Candidate, 2021, University of Baltimore School of Law. Special thanks to the University of Baltimore Law Forum staff for their excellent editorial skills. I would also like to thank my faculty advisor, Elizabeth Keyes, for her invaluable assistance, support, and expertise. Finally, I owe thanks to my family for their perseverance and strength in coming to America and being the catalyst for my interest in the immigration system.

<sup>2</sup> Julie Hirschfield & Julia Preston, *What Donald Trump's Vow to Deport Up to 3 Million Immigrants Would Mean*, N.Y. TIMES (Nov. 14, 2016), <https://www.nytimes.com/2016/11/15/us/politics/donald-trump-deport-immigrants.html>.

<sup>3</sup> Amber Phillips, *"They're Rapists." President Trump's Campaign Launch Speech Two Years Later, Annotated*, WASH. POST (June 16, 2017), <https://www.washingtonpost.com/news/the-fix/wp/2017/06/16/theyre-rapists-presidents-trump-campaign-launch-speech-two-years-later-annotated/>.

<sup>4</sup> Liam Brennan, *Sanctuary Cities Prioritize Public Safety Over Immigration Status*, NEWSWEEK (Mar. 28, 2018), <https://www.newsweek.com/sanctuary-cities-immigration-public-safety-opinion-862415>.

<sup>5</sup> Tom Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, CTR. FOR AM. PROGRESS (Jan. 26, 2017), <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366>

Several states have had success in implementing a state-wide sanctuary program, including states like California and Colorado, while many states have only had success in implementing a sanctuary status at a county-by-county or city-by-city level.<sup>6</sup> Many states which have only had local success, like Maryland's Montgomery and Prince George's counties, have made efforts to bring a statewide legislation.<sup>7</sup> The Maryland Law Enforcement and Governmental and Trust Act ("Governmental Trust Act"), the General Assembly in Maryland has made several attempts to pass a statewide act without any success thus far.<sup>8</sup>

This comment will examine why Maryland should move to becoming a sanctuary state, including the benefits that sanctuary states bring, and how Maryland can successfully pass such an act. The first section of this comment will look at the history of immigration enforcement throughout the United States.<sup>9</sup> This will start with a look at immigration agencies in the United States and how those agencies have evolved over time.<sup>10</sup> This comment will next look at the issues that lead people to want a sanctuary state.<sup>11</sup> Then, this comment will turn to the history of the act, including the lead up to the act and the stages that the act went through over time.<sup>12</sup> Section three will examine the issues behind the act, including political opposition and jurisdictions within Maryland which adamantly oppose becoming a sanctuary state, such as Frederick County.<sup>13</sup> Section four will propose solutions, including examining jurisdictions which have had success in implementing similar acts, and how Maryland may be able to reach similar success.<sup>14</sup>

## II. HISTORICAL BACKGROUND

Immigration enforcement in the United States dates back to the 1800s with the Chinese Exclusion Act and the Supreme Court's ruling to create a

---

/the-effects-of-sanctuary-policies-on-crime-and-the-economy/.

<sup>6</sup> Amanda Sakuma, *No Safe Place*, MSNBC, <http://www.msnbc.com/specials/migrant-crisis/sanctuary-cities> (last visited Dec. 17, 2019).

<sup>7</sup> *Id.*

<sup>8</sup> Pamela Wood, *Revised Immigration Trust Act Moves Forward in House*, BALT. SUN (Mar. 20, 2017), <https://www.baltimoresun.com/politics/bs-md-trust-act-house-20170320-story.html>.

<sup>9</sup> *See infra* Part II.

<sup>10</sup> *See infra* Part II.A.

<sup>11</sup> *See infra* Part II.B.

<sup>12</sup> *See infra* Part II.C.

<sup>13</sup> *See infra* Part III.

<sup>14</sup> *See infra* Part IV.

federally regulated immigration policy.<sup>15</sup> Over the next century, immigration laws took flight, with limits being imposed on individuals attempting to immigrate, including limiting individuals with “mental defects” and placing quotas on individuals of certain nationalities.<sup>16</sup> These new national laws, including implementing a tax on incoming immigrants and excluding certain classes of people, resulted in a need for federal immigration enforcement agents.<sup>17</sup> Over the next century, there was a massive increase in the amount of immigration, with a brief pause resulting from the First World War.<sup>18</sup> This led to spikes and evolutions in immigration enforcement at different eras, such as post 9/11 when workplace raids became more common.<sup>19</sup> This increase in immigration also caused concerns within the United States, resulting in Congress limiting the number of visas issued.<sup>20</sup> Because of this limit, immigrants directly responded by entering illegally.<sup>21</sup> To counteract this issue, the government created several agencies.

#### A. *History of immigration agencies*

One response responses to immigration issues was Congress’s creation of a border patrol, which aimed to meet the issue at any port of entry.<sup>22</sup> In response to individuals who made it past any ports of entry, or those who came to the country legally but remained illegally, the Immigration and Naturalization Service (“INS”) was created by executive order.<sup>23</sup> From its inception in 1933 to its disbandment in 2003, the INS served through “investigation, exclusion, prevention of illegal entries, [and] deportation of criminal and subversive aliens...”<sup>24</sup> While its motives shifted throughout eras, including a shift in focus on undocumented aliens in the United States for employment purposes, its goal remained steady – to deport those who were not properly in the country.<sup>25</sup>

---

<sup>15</sup> *Overview of INS History*, USCIS, 2012 at 3, <https://www.uscis.gov/sites/default/files/USCIS/History%20and%20Genealogy/Our%20History/INS%20History/INSHistory.pdf>.

<sup>16</sup> Elizabeth Keyes, *Race and Immigration, Then and Now: How the Shift to “Worthiness” Undermines the 1965 Immigration Law’s Civil Rights Goals*, 57 *How. L.J.* 889, 904-05 (2014).

<sup>17</sup> *Overview of INS History*, *supra* note 15.

<sup>18</sup> *Id.* at 6.

<sup>19</sup> Keyes, *supra* note 16, at 910-11.

<sup>20</sup> *Overview of INS History*, *supra* note 15, at 7.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 10.

The INS remained until after the 9/11 attacks, when Congress passed the Homeland Security Act of 2002.<sup>26</sup> The INS was replaced with the Immigration and Customs Enforcement, under the Department of Homeland Security, or what is commonly known as ICE.<sup>27</sup>

With these new departments, the United States also saw the rise of what is known as “crimmigration,” when in 2008, Congress made it mandatory to deport any noncitizen who committed any sort of felony.<sup>28</sup> This concept, however, goes back to at least 1996, when the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”), listed offenses that could lead to deportation.<sup>29</sup> The different versions of the act were issued in opposition to ICE, the growing crimmigration backlash, and the political climate in the country.<sup>30</sup>

B. *Issues that caused the desire for a sanctuary state act*

What constitutes sanctuary status varies from jurisdiction to jurisdiction, but in the most general sense, the term “sanctuary” refers to jurisdictions that limit local law enforcement cooperation with immigration enforcement, and limit local law enforcement work with locating and detaining undocumented individuals.<sup>31</sup> This idea dates back to the 1980s, where churches provided sanctuary to individuals unable to obtain refugee status despite fleeing violence in their home countries.<sup>32</sup>

After the September 11, 2001 attacks, sanctuary cities as we know them in the modern sense grew in response to more stringent national security.<sup>33</sup> Some jurisdictions had already enacted sanctuary policies, which would essentially decline the enlistment of that jurisdiction’s law enforcement for immigration enforcement purposes in civil matters.<sup>34</sup> However, many

---

<sup>26</sup> *Overview of INS History*, *supra* note 15, at 11.

<sup>27</sup> *Id.*

<sup>28</sup> Juliet Strumf, *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power*, 56 AM. U.L. REV. 367, 370 (2006) (“Crimmigration” is defined as “the criminalization of immigration law.”).

<sup>29</sup> Keyes, *supra* note 16.

<sup>30</sup> Michael Collins, “Trust Act” Means Flouting Immigration Law, MD. REP. (Mar. 13, 2017) <https://marylandreporter.com/2017/03/13/collins-trust-act-means-flouting-immigration-law/>.

<sup>31</sup> Jennifer Critchley & Lisa Trembly, *Historical Review, Current Status and Legal Considerations Regarding Sanctuary Cities*, N.J. LAW. June 2017, at 32.

<sup>32</sup> Tal Kopan, *What are Sanctuary Cities, and Can They be Defunded?*, CNN (Mar. 26, 2018), <https://www.cnn.com/2017/01/25/politics/sanctuary-cities-explained/index.html>.

<sup>33</sup> Critchley & Trembly, *supra* note 31, at 33.

<sup>34</sup> Gene Demby, *Why Sanctuary Cities are Safer*, NPR (Jan. 29, 2017, 7:02 AM), <https://www.npr.org/sections/codeswitch/2017/01/29/512002076/why-sanctuary-cities-are-safer>.

jurisdictions moved for sanctuary status following President Trump's January 25, 2017 executive order, as well as his other stringent immigration policies.<sup>35</sup>

Although arguably the most notable part of the President's campaign promise regarding immigration was a border wall, President Trump also placed heavy emphasis on mass deportation and cracking down on illegal immigration.<sup>36</sup> Included in the plans for mass deportation, the President's campaign called for "detention – not catch-and-release," "defunding sanctuary cities... [and] cooperating with local task forces. . . ."<sup>37</sup> President Trump passed his executive order, which has been viewed as an unofficial catalyst to the act, to fulfill one of his most memorable campaign promises which demanded more stringent border security and immigration enforcement.<sup>38</sup> While the President's executive order called sanctuary cities a threat to public safety and a cause for "immeasurable harm to the American people," many jurisdictions view sanctuary policies as exactly the opposite.<sup>39</sup>

Many people do not see sanctuary jurisdictions as an "immeasurable harm" because they view the need for sanctuary jurisdictions as a matter of public interest. In fact, data shows that those who are not in the country legally are not as likely to commit crime, potentially because of the fear of being removed.<sup>40</sup> This does not mean that sanctuary cities will lead to an increase of crime, however, because law enforcement is still able to act in their official duties and noncitizens are still subject to removal when they commit crimes – law enforcement would simply not be able to arrest, search, or detain individuals because of their immigration status alone.<sup>41</sup>

To put it in perspective, the counties that instituted sanctuary requirements nationally had 35.5 percent less crimes per ten thousand people as well as lower rates of unemployment.<sup>42</sup> Additionally, while there is a common misconception that illegal immigrants become a public charge, research found that sanctuary cities resulted in a reduction in the use of public benefits.<sup>43</sup> Research has also shown that not only is less crime being

---

<sup>35</sup> *Id.*

<sup>36</sup> Nick Gass, *Trump's Immigration Plan: Mass Deportation*, POLITICO (Aug. 17, 2015), <https://www.politico.com/story/2015/08/donald-trump-immigration-plan-121420>.

<sup>37</sup> *Id.*

<sup>38</sup> Jeremy Diamond, *Trump Orders Construction of Border Wall, Boosts Deportation Force*, CNN (Jan. 26, 2017), <https://edition.cnn.com/2017/01/25/politics/donald-trump-build-wall-immigration-executive-orders/>.

<sup>39</sup> Exec. Order No. 13767, 82 Fed. Reg. 8793 (2017), <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>.

<sup>40</sup> Demby, *supra* note 34.

<sup>41</sup> S.B. 835, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

<sup>42</sup> Demby, *supra* note 34.

<sup>43</sup> *Id.*

committed, but crime investigations go more smoothly, as immigrants are more likely to cooperate with investigations and become witnesses without the risk of being deported looming over them.<sup>44</sup>

Beyond the benefits that sanctuary status would provide, many urged for enactment as a direct result of the President's stringent policies with immigration. During the first year of President Trump's term, the number of ICE encounters with United States citizens was 27,540, up from the 5,940 from President Obama's final year in office.<sup>45</sup> Although President Trump justified his 2017 executive order on the grounds of criminal conduct of illegally situated individuals, statistics did not lend itself to this.<sup>46</sup> In fact, reports found that over eighty-five percent of removals were for those who had no criminal convictions or only non-violent ones.<sup>47</sup>

However, this statistic sometimes get overshadowed by the rare, but horrific crimes that do occur, such as the murder of Kate Steinle ("Steinle").<sup>48</sup> In 2015, Steinle was shot and killed by an undocumented individual, Jose Ines Garcia Zarate ("Garcia Zarate"), and her parents brought suit against the city.<sup>49</sup> Her parents argued that officials should have informed ICE when they released Garcia Zarate from jail following other charges.<sup>50</sup> This argument ultimately failed, leading to a nationwide debate regarding the safety concerns from sanctuary cities.<sup>51</sup> In Maryland, some jurisdictions already act as sanctuary cities or counties, with counties like Montgomery banning their government agencies from cooperating with immigration agencies.<sup>52</sup> Similar efforts have been put in place in Prince George's County as well, where officers are prohibited from aiding ICE.<sup>53</sup>

---

<sup>44</sup> *Id.*

<sup>45</sup> *ICE Data Reveals the Impact of Immigration Enforcement Under the Trump Administration*, AM. IMMIGR. COUNCIL (July 1, 2019), <https://www.americanimmigrationcouncil.org/news/ice-data-reveals-impact-immigration-enforcement-under-trump-administration>.

<sup>46</sup> Demby, *supra* note 34.

<sup>47</sup> AM. IMMIGR. COUNCIL, *supra* note 45.

<sup>48</sup> Dave Ray, *In Memory of Katie Steinle, It's Time to Finally Shut Down 'Sanctuary Cities'*, HILL (Nov. 2, 2017), <https://thehill.com/opinion/immigration/358432-in-memory-of-katie-steinle-its-time-to-finally-shut-down-sanctuary-cities>.

<sup>49</sup> Christina Maxouris, *Kate Steinle's Parents Can't Sue "Sanctuary City" for Failing to Tell ICE About Shooter's Release*, CNN (Mar. 26, 2019), <https://www.cnn.com/2019/03/26/us/kate-steinle-family-cannot-sue-city/index.html>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Rebecca Tan, *No Cooperation with ICE: Montgomery's New Ban is Strongest in D.C. Region*, WASH. POST (July 22, 2019, 3:39 PM), [https://www.washingtonpost.com/local/md-politics/no-cooperation-with-ice-montgomerys-new-ban-is-strongest-in-dc-region/2019/07/22/46b85870-ac7d-11e9-a0c9-6d2d7818f3da\\_story.html](https://www.washingtonpost.com/local/md-politics/no-cooperation-with-ice-montgomerys-new-ban-is-strongest-in-dc-region/2019/07/22/46b85870-ac7d-11e9-a0c9-6d2d7818f3da_story.html).

<sup>53</sup> *Id.*

C. *Stages the Governmental Trust Act has gone through thus far*

While the Maryland Law Enforcement Trust Act ultimately failed, it went through several rounds of drafting. In 2014, Senator Ramirez introduced the Maryland Law Enforcement Trust Act to the Senate.<sup>54</sup> The bill, in summary, sought to end detainer based on immigration status.<sup>55</sup> Additionally, it sought to cease the stop and search of individuals due to immigration status.<sup>56</sup> Finally, the act demanded that law enforcement cannot bring in immigration agents to interview inmates unless there was an opportunity for the inmate to have their counsel present, they consented, and the interview was not before their first appearance in court.<sup>57</sup>

This first version of the act did not receive enough votes to come into effect. However, Maryland lawmakers persisted and introduced a revised version of the bill in 2017, which was renamed the Maryland Law Enforcement and Governmental Trust Act.<sup>58</sup> The 2017 version of the act began with defining terms, including “government agent” and “immigration enforcement,” which the previous version omitted.<sup>59</sup> The bill went on to give a much more detailed list of prohibited activity compared to the first bill, including a limitation on use of public goods, responding to information requests, and assisting in arrests for the purpose of immigration enforcement.<sup>60</sup> The revision also limited what government funds and resources can be used for immigration enforcement, including government databases for the purposes of investigating.<sup>61</sup>

Despite the revisions, this act also failed, and from the first introduction of the revised act, officials in Maryland already expressed opposition. This opposition included Governor Larry Hogan, who stated he would “veto this dangerously misguided legislation the moment that it reach[e] [his] desk.”<sup>62</sup> The bill also received unexpected opposition when dozens of Asian Americans in Maryland testified against the Act.<sup>63</sup> Out of the thirty-two speakers in opposition of the act during the House Judiciary Committee

---

<sup>54</sup> S.B. 554, 434th Gen. Assemb., Reg. Sess. (Md. 2014).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> S.B. 835, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Wood, *supra* note 8.

<sup>63</sup> *Id.*

hearing in 2017, twenty-seven were Chinese-American.<sup>64</sup> Despite the opposition, however, it appears there is still a desire to issue a bill that would make Maryland become a sanctuary state.

The Act was reintroduced in 2019, where it was passed in the Maryland House by a “wide margin,” but was never introduced to the Senate for a vote as a result of Judiciary Committee chairman Robert Zirkin’s skepticism to sanctuaries.<sup>65</sup> However, now that Zirkin has stepped down from his position, there is potential in the future.

### III. ISSUE

By limiting sanctuary cities and increasing immigration enforcement, jurisdictions risk higher crime rates and increased rates of poverty.<sup>66</sup> Because of the negatives that come from immigration enforcement, places like Maryland which are seeking sanctuary status must overcome the opposition that ranges from political opponents of the act, to Maryland residents who oppose the Act as well, including legal immigrants within the state.<sup>67</sup> The issue, however, arises from the perceived downfalls of sanctuary jurisdictions and the battle to overcome these perceptions, especially within the legislature and leadership in Maryland.

#### A. Political opposition within Maryland

From the inception of the Act, there has been heavy political opposition, with some of the most powerful coming from Maryland’s Governor Larry Hogan himself.<sup>68</sup> Governor Hogan voiced strong disapproval for the Act, stating that law enforcement should be fully cooperating with federal enforcement agencies.<sup>69</sup> He also stated that he would do whatever was in his

---

<sup>64</sup> Bill Turque, *These First-Generation Chinese Americans are Vigorously Opposing Sanctuary Laws*, WASH. POST (Mar. 20, 2017), [https://www.washingtonpost.com/local/md-politics/these-first-generation-chinese-americans-are-loudly-opposing-sanctuary-laws/2017/03/17/92728e94-09db-11e7-93dc-00f9bdd74ed1\\_story.html](https://www.washingtonpost.com/local/md-politics/these-first-generation-chinese-americans-are-loudly-opposing-sanctuary-laws/2017/03/17/92728e94-09db-11e7-93dc-00f9bdd74ed1_story.html).

<sup>65</sup> Shari Rendall, *Maryland Dodges Becoming a Sanctuary State for Another Year*, FAIRUS (Apr. 11, 2019), <https://www.fairus.org/legislation/state-local-legislation/maryland-dodges-becoming-sanctuary-state-another-year>.

<sup>66</sup> Wong, *supra* note 5.

<sup>67</sup> Sabrina Tavernise, *Sanctuary Bills in Maryland Faced a Surprise Foe: Legal Immigrants*, N.Y. TIMES (May 8, 2017), <https://www.nytimes.com/2017/05/08/us/legal-immigrants-who-oppose-illegal-immigration.html>.

<sup>68</sup> Erin Cox & Pamela Wood, *Hogan: Limiting Cooperation with Immigration Enforcement is “Absurd”*, BALT. SUN (Mar. 22, 2017, 1:08 PM), <https://www.baltimoresun.com/politics/bs-md-trust-act-hogan-senate-20170321-story.html>.

<sup>69</sup> *Id.*

power to stop the Act, including vetoing it the moment he could.<sup>70</sup> According to Assistant Federal Public Defender, Joanna Silver, accruing enough votes to overcome the Governor's veto would present an issue.<sup>71</sup> Getting enough votes has proved a challenge in the past, however, as democrats have had a "two-to-one advantage" in the Maryland senate, yet still have not had luck with the bill passing despite multiple rounds of it in legislature.<sup>72</sup>

Governor Hogan's opposition did not stand alone in the political realm, as the chair of the Senate committee responsible for the bill, Robert Zirkin, did not even present the bill to the Senate.<sup>73</sup> According to Silver, Zirkin did not present the bill for a vote because he personally opposed it.<sup>74</sup> While many were in support of the bill in 2017, Zirkin's proposed amendments to the bill caused support to falter.<sup>75</sup> Furthermore, the issue extends beyond this, as there is vocal anti-immigrant lobby.<sup>76</sup> Although small, this group comes to Annapolis regularly and expresses their opposition to the act.<sup>77</sup> While it is expected that many Republicans would oppose the act, many Democrats are also in opposition, as they are in traditionally Republican districts and are aiming to be cautious in their roles there.<sup>78</sup>

### *B. Federal opposition*

Beyond opposition in Maryland itself, the President made immigration enforcement one of the main focuses of his administration, and vowed for mass deportation during his campaign.<sup>79</sup> Further, President Trump has expressed that federal funding would be taken from police departments in jurisdictions that implement sanctuary policies.<sup>80</sup> These threats are not taken lightly, as President Trump's administration has even gone as far as bringing suit against jurisdictions who have implemented sanctuary laws.<sup>81</sup> In a split decision, the Ninth Circuit held that the Trump Administration's hold of

---

<sup>70</sup> *Id.*

<sup>71</sup> Joanna Silver, *Thoughts on the Maryland Governmental and Trust Act* (unpublished interview, on file with author, conducted on Dec. 30, 2019).

<sup>72</sup> Tavernise, *supra* note 67.

<sup>73</sup> Cox & Wood, *supra* note 68.

<sup>74</sup> Silver, *supra* note 71.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> Kopan, *supra* note 32.

<sup>80</sup> Sakuma, *supra* note 6.

<sup>81</sup> Tal Axelrod, *9th Circuit Rules in Favor of Trump Admin. in 'Sanctuary City' Case*, HILL (July 12, 2019, 4:41 PM), <https://thehill.com/regulation/court-battles/452862-9th-circuit-rules-in-favor-of-trump-admin-in-sanctuary-city-case>.

federal funding from sanctuary jurisdictions was in fact constitutional.<sup>82</sup> In response to this decision, other jurisdictions have been reluctant to institute sanctuary policies.<sup>83</sup>

### *C. Opposition among Maryland residents*

Although many Maryland residents support sanctuary status, some of the most unexpected opposition came from immigrants themselves.<sup>84</sup> When Howard County began the move to becoming a sanctuary jurisdiction, many legal immigrants voiced that this protection undermined their own journey to legal citizenship, thus causing them to oppose the change.<sup>85</sup>

While it may be difficult for many to understand why immigrants would be opposed to the act, immigrants explain that they took the “correct” route to immigrate, so others must do the same.<sup>86</sup> Additionally, many legal immigrants create an “us” versus “them” mentality when comparing themselves to the majority Latino undocumented individuals.<sup>87</sup> This “us” versus “them” mentality has proven to be a challenge in gaining the support of individuals whom much of the legislature already expected to be in support.<sup>88</sup>

### *D. Concerns raised from jurisdictions which have adopted sanctuary legislation*

A major concern regarding sanctuary legislation arises from issues present in other jurisdictions that have adopted sanctuary legislation. Following Kate Steinle’s death, there was hysteria over undocumented immigration, and there was even a nationwide rise in the amount of Google searches performed for the words “sanctuary city.”<sup>89</sup> Individuals later expressed that they felt that this was a “senseless murder” that could have been avoided if sanctuary jurisdictions did not exist or were more firmly regulated.<sup>90</sup> People became even more fearful and weary of sanctuary jurisdictions, and did not want a part in them.<sup>91</sup> This unfortunate occurrence,

---

<sup>82</sup> City of L.A. v. Barr, 929 F.3d 1163, 1182-83 (9th Cir. 2019).

<sup>83</sup> *Id.*

<sup>84</sup> Tavernise, *supra* note 67.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> Maxouris, *supra* note 49.

<sup>90</sup> Ray, *supra* note 48.

<sup>91</sup> *Id.*

as well as others like it, has added to the justifications of the opposition within Maryland.

*E. Jurisdictional opposition from counties which have adopted INA 287(g)*

Beyond politics and the support of Maryland residents, one of the biggest obstacles to implementing the act is jurisdictions that adamantly oppose sanctuary status and have implemented the Immigration and Nationality Act (INA) § 287(g).<sup>92</sup>

Under INA § 287(g), state and local law enforcement enter agreements with ICE where law enforcement is permitted to perform some functions of immigration enforcement after undergoing adequate training.<sup>93</sup> Jurisdictions that adopt INA § 287(g) can pick from two different models, the jail enforcement model (JEM) or the warrant service officer model (WSO).<sup>94</sup> With JEM, law enforcement is trained by ICE to identify and process individuals with criminal charges, including pending charges.<sup>95</sup> The WSO provides a limited function model, where ICE will train law enforcement to perform limited immigration enforcement within jails or correctional facilities.<sup>96</sup>

A study by the Migration Policy Institute showed that the implications of these programs were that individuals would avoid public places, change basic behaviors like driving patterns, and cause a distrust in authorities.<sup>97</sup> Further, in Frederick County, there was a sixty-one percent decrease in Hispanic non-residents in the county following the adoption of INA § 287(g) between 2007 and 2009.<sup>98</sup> This was in contrast to Montgomery County, where there was a nineteen percent increase in the Hispanic non-resident population during the same time period.<sup>99</sup>

Further, the adoption of these policies has caused tensions between different jurisdictions in Maryland, including accusations of racial

---

<sup>92</sup> Sakuma, *supra* note 6.

<sup>93</sup> U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, Oct. 4, 2019, <https://www.ice.gov/287g>.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Randy Capps et al., *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement*, MIGRATION POL'Y INST. 3 (2011), <https://www.migrationpolicy.org/pubs/287g-divergence.pdf>.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 39.

profiling.<sup>100</sup> Despite these tensions, however, leaders in some of these jurisdictions have stated that they will not change their mindset, and will continue to implement INA § 287(g).<sup>101</sup> While some counties in Maryland have already limited their cooperation with ICE to a smaller degree than what INA § 287(g) calls for, counties like Frederick have not, which may cause further issues with support for future versions of the act, and tensions if the act were to pass.<sup>102</sup>

#### IV. SOLUTION

The General Assembly in Maryland must look to why jurisdictions both within and outside of Maryland have had success in implementing sanctuary status and examine how to mimic that success throughout the state. Although limited jurisdictions within Maryland have sanctuary status, it is vital to create a uniform statewide approach. However, given the backlash from the President regarding sanctuary status, including threats to withhold funding, jurisdictions may be reluctant to take the leap.<sup>103</sup> The benefits, including lower crime rates and poverty, should be a guiding force in implementing such a solution.<sup>104</sup> According to Silver, this means the goal should be gaining community support that would cause a “veto-proof majority” vote, which could come from limiting the bill to only prohibiting law enforcement from cooperating with ICE and nothing more.<sup>105</sup>

##### *A. Overcoming the opposition from Maryland lawmakers*

To overcome the opposition within Maryland, legislative bodies could look to what has worked right at home, in jurisdictions like Montgomery County, where cooperation with immigration enforcement has been limited and base the solution around that.<sup>106</sup> Although legislation in Montgomery County was officially signed in 2019, the lack of cooperation with ICE has been ongoing since 2014.<sup>107</sup> This refusal has been significant, as thirty

---

<sup>100</sup> Rebecca Tan, *Immigration Wars: In a Small Md. City, Dueling Protests Inflamed by Rhetoric - and Visitors – From Washington*, WASH. POST (Oct. 6, 2019, 5:29 PM), [https://www.washingtonpost.com/local/md-politics/immigration-wars-in-a-small-maryland-town-clashing-views-and-dueling-protests/2019/10/06/40c24400-e5fb-11e9-a331-2df12d56a80b\\_story.html](https://www.washingtonpost.com/local/md-politics/immigration-wars-in-a-small-maryland-town-clashing-views-and-dueling-protests/2019/10/06/40c24400-e5fb-11e9-a331-2df12d56a80b_story.html).

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> Tan, *supra* note 52.

<sup>104</sup> Wong, *supra* note 5.

<sup>105</sup> Silver, *supra* note 71.

<sup>106</sup> Tan, *supra* note 52.

<sup>107</sup> *Id.*

percent of Montgomery County's population is made up of immigrants.<sup>108</sup> This same sort of policy implementation has been seen in Prince George's County as well, where law enforcement has been instructed to only cooperate with ICE when the issue involves a criminal immigration warrant.<sup>109</sup>

These jurisdictions were able to gain support in the push for sanctuary status in part as backlash against the President's vocal disdain for sanctuary jurisdictions.<sup>110</sup> Given the fear of limiting resources, however, one solution for Maryland or other jurisdictions hoping to implement sanctuary status is to limit the breadth of what a sanctuary jurisdiction would entail - much like Montgomery County did.<sup>111</sup> In counties like Montgomery, ICE is still able to act in their capacity, but local government resources will not be used to assist with civil immigration investigations.<sup>112</sup> While this does limit the lengths ICE can go to for immigration enforcement, it still allows them to perform in the same capacity, with local law enforcement only providing assistance if ICE possesses a court order or criminal warrant.<sup>113</sup> According to Silver, this strategy of limiting the breadth of sanctuary status will assist with gaining support across party lines.<sup>114</sup>

Although one of the concerns for Maryland lawmakers is the jurisdictional splits within Maryland, they could look to California for guidance on how a jurisdictional split may play out following a statewide law. In 2017, California passed the California Values Act, which recognized that the trust between California's immigrant residents and local authorities was vital to public safety.<sup>115</sup> As a result, this act forbade California law enforcement agencies from "[using] agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes."<sup>116</sup> This provision thus prohibits law enforcement from performing acts of an immigration officer, including even asking about someone's immigration status.<sup>117</sup> Further, this act does prevent

---

<sup>108</sup> *Id.*

<sup>109</sup> Lynh Bui, *Pr. George's Police Put it in Writing: Officers Can't Cooperate With ICE for Noncriminal Deportations*, WASH. POST (July 9, 2019), [https://www.washingtonpost.com/local/md-politics/pr-georges-police-put-it-in-writing-officers-cant-cooperate-with-ice-for-noncriminal-deportations/2019/07/09/92fadbe0-a255-11e9-b732-41a79c2551bf\\_story.html](https://www.washingtonpost.com/local/md-politics/pr-georges-police-put-it-in-writing-officers-cant-cooperate-with-ice-for-noncriminal-deportations/2019/07/09/92fadbe0-a255-11e9-b732-41a79c2551bf_story.html).

<sup>110</sup> Kopan, *supra* note 32.

<sup>111</sup> Tan, *supra* note 52.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> Silver, *supra* note 71.

<sup>115</sup> S.B. 54, 437th Gen. Assemb., Reg. Sess. (Ca. 2017).

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

law enforcement from responding to requests for specific information regarding criminal conduct and arrests.<sup>118</sup>

Prior to the enactment of the sanctuary bill, California, like Maryland, had several jurisdictions against becoming a sanctuary state, with many of those jurisdictions still expressing opposition after passage.<sup>119</sup> Despite this, however, California managed to gain majority support from the legislature, and even law enforcement, by advocating the positives that a sanctuary jurisdiction can bring, such as a “foster[ed] trust in immigrant communities.”<sup>120</sup> If Maryland can follow a similar path of advocacy, they can follow California’s suit, despite the opposition within Maryland itself.

Finally, given that Maryland house members were already strongly in favor of the bill during the last introduction, the final hurdle would have been convincing Zirkin to even introduce it to the Maryland Senate.<sup>121</sup> However, Zirkin has since stepped down from the position, and will not be seeking reelection. Zirkin has since been replaced by William Smith.<sup>122</sup> Because of this, Maryland may have a much easier time not only introducing the bill, but ultimately passing it. Additionally, Maryland may have a much easier time passing this legislation if other concerns with it are addressed, such as the instances of crime that have occurred in the past. A potential solution to this would be adding language that requires immigration action sooner, such as when an individual is a repeat offender. Limiting the scope of the act, as well as focusing on the successes that other jurisdictions both within and outside of Maryland have had, can lead to large success for Maryland’s future as a sanctuary state.

### *B. Overcoming the fear of federal opposition*

With the current administration’s focus on immigration reform and the threat of reprimands for those who do not follow suit, it can be difficult to convince lawmakers to work towards this goal. However, Maryland

---

<sup>118</sup> *Id.*

<sup>119</sup> Tatiana Sanchez, *California Cities Are Rebellious Against State Sanctuary Law, But How Far Can They Go*, MERCURY NEWS (April 23, 2018), <https://www.mercurynews.com/2018/04/23/california-cities-are-rebellious-against-state-sanctuary-law-but-how-far-can-they-go/>.

<sup>120</sup> Gale Holland, *California ‘Sanctuary’ Bill Gets Support From Law Enforcement, Rebuke From Trump Administration*, L.A. TIMES (Sep. 16, 2017, 4:15 PM), <https://www.latimes.com/local/lanow/la-me-ln-mcdonnell-immigration-20170916-story.html>.

<sup>121</sup> Rendall, *supra* note 65.

<sup>122</sup> Josh Kurtz, *Sen. Bobby Zirkin Leaving Post To Focus on ‘Most Important’ Thing*, PATCH (Dec. 3, 2019), <https://patch.com/maryland/pikesville/sen-bobby-zirkin-leaving-post-focus-most-important-thing>.

lawmakers should look towards other states which have had success as a useful resource for finding a solution. California's success revealed many legislature's concern with political backlash.<sup>123</sup> While many of Maryland legislative leaders fear the Trump Administration's threats of reduced funding to sanctuary states, the United States Ninth Circuit held on appeal that sanctuary states do not violate federal law.<sup>124</sup> The decision arose from a lawsuit brought by the Trump Administration, but the court maintained that California's act was not a violation, and constitutional as a result.<sup>125</sup> Although challenging presidential threats is a large hurdle to overcome, California's success shows that a sanctuary act is not only possible, but protected by the court.

*C. Bringing this to Maryland despite some opposition from Maryland residents*

In the end, the solution to Maryland's lack of success rests in gaining the support of Maryland residents, as Maryland lawmakers do not want to lose their support in the future for passing legislation that is opposed. This can be achieved through both making the proven benefits of sanctuary jurisdictions clear and creating a bill that would make Maryland a sanctuary state, while limiting the scope enough to ease the fears of those who worry that a sanctuary state is extreme, much like Montgomery County has done.

Coming up with a feasible solution can prove to be a challenge when it comes to overcoming individuals' perceptions of crime rates and other issues at hand, such as individual concerns of situations similar to Kate Steinle happening in other sanctuary jurisdictions. Overcoming this can be done through advocacy over the data that has been shown from sanctuary cities, and showing both citizens and legislatures that sanctuary cities are not as dangerous as they have been made out to be.<sup>126</sup> In fact, although the events in San Francisco involving Steinle were devastating, California has found that there was no change to the amount of violent crime following California enacting state-wide sanctuary legislation.<sup>127</sup> Additionally, despite the events in San Francisco, it has been shown that immigrants as a whole are less likely

---

<sup>123</sup> Richard Gonzales, *Federal Appeals Panel Upholds California's 'Sanctuary State' Law*, NPR (Apr. 18, 2019, 6:55 PM), <https://www.npr.org/2019/04/18/714882333/federal-appeals-panel-upholds-california-sanctuary-state-law>.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> David Shultz, *Crime Did Not Surge When California Became a 'Sanctuary State'*, SCI. MAG. (Feb. 15, 2020), <https://www.sciencemag.org/news/2020/02/crime-did-not-surge-when-california-became-sanctuary-state>.

<sup>127</sup> *Id.*

to commit crimes when compared to United States citizens.<sup>128</sup> With data showing an average of 35.5 fewer crimes per ten thousand people in sanctuary jurisdictions, it has been shown to be a myth that sanctuary jurisdictions increase crime levels.<sup>129</sup>

Further, it has been shown that it is a myth that sanctuary jurisdictions will increase the amount of public charges and harm the economy, with the median household income being an average of \$4,352.70 higher in sanctuary jurisdictions.<sup>130</sup> This goes beyond benefitting only immigrant and specifically Latino communities, as there was a reported 1.4 percent lower level of poverty for white individuals within sanctuary jurisdictions.<sup>131</sup> If Maryland legislatures can bring awareness to data like this to both other members of the legislature as well as Maryland citizens, then there will be a better chance of passing this legislation.

#### V. CONCLUSION

Although the path to becoming a sanctuary state may be difficult, the benefits of achieving this goal should not be left unconsidered. Sanctuary jurisdictions create positive outcomes for the community at large, not just immigrants. As such, there should be a stronger push by the Maryland legislature to enact policies to make the state a sanctuary state. By overcoming political barriers, this can be achieved. With six states enacting sanctuary legislation, including California, Maryland should look to these jurisdictions as inspiration and follow suit accordingly.<sup>132</sup> Enacting effective sanctuary legislation in Maryland will improve the economy, lower crime, and benefit Maryland residents as a whole, and as such, should be seriously considered.

---

<sup>128</sup> *Id.*

<sup>129</sup> Wong, *supra* note 5.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Sanctuary States 2019*, WORLD POPULATION REV., <http://worldpopulationreview.com/states/sanctuary-states/> (last visited Jan 3, 2020).