

# What To Know About Boston's Status As A 'Sanctuary City'

By **Allissa Wickham**

Law360, New York (October 11, 2017, 10:19 PM EDT) -- Boston's pro-immigrant stance has earned it the label of "sanctuary city," but it isn't involved in litigation over sanctuary city funding threats, and has to contend with a Republican governor who takes a more hard-line approach to immigration. Here's where Boston stands on several sanctuary city issues.

## Current Immigrant Protections: The Trust Act & New Funding

The term "sanctuary city" is somewhat amorphous, but such jurisdictions often refuse to comply with detainer requests from U.S. Immigration and Customs Enforcement. In this regard, Boston fits the bill.

Under Boston's 2014 Trust Act, law enforcement officers can't detain someone based on a civil immigration detainer request. The city council agreed to a resolution reaffirming the act in 2016, not long after it was reported that Gov. Charlie Baker had reversed a policy blocking state police from holding immigrants.

Boston's Democratic mayor, Marty Walsh, has shown himself to be strongly pro-immigrant as well. This January, following President Donald Trump's executive order to withhold federal funding from so-called sanctuary cities, Walsh said the city would continue to cultivate "trusting relationships" between immigrants and law enforcement. He even went so far as to say people would be allowed to seek shelter in city hall itself.

"I think the mayor really has made it clear that he views his job as the mayor of all of the people [in] the city of Boston, and regardless of their immigration status," said Susan Cohen, the Boston-based chair of the immigration practice at Mintz Levin Cohn Ferris Glovsky and Popeo PC. "And his job is to support and protect them — all of them."

The city is also playing a role in keeping track of the Greater Boston Immigrant Defense Fund, which was unveiled in mid-September. The initiative aims to increase the region's ability to "protect and defend its many immigrant communities" through a boost in education and "access to legal services," according to the announcement.

While the Massachusetts Legal Assistance Corp. is the sponsor for the program, the Mayor's Office for Immigrant Advancement will track and assess its effect, the statement said.

## A Harsher Tone From the Governor

Although Mayor Walsh has struck a welcoming note, Gov. Baker has taken a harsher tone on immigration issues.

This stance came to the fore in early August, when Baker submitted legislation that would provide police and court officers the power to honor ICE detainer requests. The proposal came after the Massachusetts high court ruled that court officers in the state can't hold people in custody solely on so-called detainers from federal immigration authorities.

There's also the debate over the Safe Communities Act, which has come to be known as the "sanctuary state" proposal. The bill contains a raft of provisions, but would limit local law enforcement's involvement in immigration enforcement. For example, law enforcement agencies would not be allowed to inquire about someone's immigration status.

While Baker released a statement in June opposing the bill, Walsh said back in February that he supports it, during an interview on the television program "Greater Boston."

"To their credit ... the mayor's office did testify in general support for the Safe Communities Act at the hearing in June," noted Amy Grunder, director of legislative affairs for the Massachusetts Immigrant and Refugee Advocacy Coalition, who called the move "really great."

### **While Massachusetts Has Sued, Boston's Hung Back**

Although Massachusetts has taken legal action against the Trump administration over its travel bans and termination of a deportation protection program for young immigrants, Boston has stayed out of the courtroom fray in regard to funding for sanctuary cities.

This stands in contrast to cities like Chicago and San Francisco, which have jumped into legal disputes on this issue. Instead, two smaller Massachusetts cities, Chelsea and Lawrence, filed suit against Trump in early February over his threats to strip federal funding for defying his immigration priorities.

"The mayor of Lawrence and the city manager of Chelsea ... stepped up and were very much at the forefront of wanting to oppose the the federal government's effort to punish their communities and the residents in their communities," said Ivan Espinoza-Madrigal, the executive director of the Lawyers Committee for Civil Rights and Economic Justice in Boston, who represented the cities.

When asked why Boston didn't choose to participate in the sanctuary city funding lawsuits, An H. Lê, a policy and communications adviser for the Mayor's Office for Immigrant Advancement, said he couldn't talk about the thinking in its law department. But he did note that under the U.S. Department of Justice's guidance, Boston doesn't actually fall under the framework of a sanctuary city.

In May, the DOJ defined sanctuary cities as meaning jurisdictions that refuse to comply with 8 U.S.C. 1373. Section 1373 of the Immigration and Nationality Act calls only for state and local authorities to share information with federal immigration agents on the backgrounds of individuals who may not be authorized to be in the U.S., but does not expressly call for them to collect the information.

--Additional reporting by Kelcee Griffis and Kevin Penton. Editing by Bruce Goldman.