

RESOLUTION NO. 2025-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, DECLARING THE CITY OF HUNTINGTON BEACH A NON-SANCTUARY CITY FOR ILLEGAL IMMIGRATION FOR THE PREVENTION OF CRIME

WHEREAS, the City of Huntington Beach is a Municipal Corporation, and a Charter City created by the people under Article XI of the California Constitution, providing the right and power to make and enforce all laws and regulations in respect to municipal affairs; and

WHEREAS, the City's Police Department engages in local arrests and investigations as municipal affairs; and

WHEREAS, according to the California Department of Justice, violent crime has risen in California by nearly 20% since 2018 (3.3% in 2023, and 15.1% from 2018 to 2023)¹, and aggravated assaults, motor vehicle theft, robbery, and arson throughout the State have increased since 2018; and

WHEREAS, the Nation has seen violent crime committed by illegal immigrants including MS-13² and Tren de Aragua gang members including widely reported rapes, murders, assaults, and other crimes.³ In addition, the reported violent crimes by illegal immigrants includes hostile take-overs by force of apartment buildings and other American establishments seen in Aurora, Colorado⁴ and El Paso, Texas;⁵ and

WHEREAS, Data shows that the flow of mass illegal immigration *creates* human trafficking, including increasing a market in the United States for human trafficking – with “[t]he number of persons prosecuted for human trafficking more than doubled from 2012 to 2022.”⁶ In a recent report, the U.S. Congress noted that nearly 60,000 victims of human trafficking are trafficked into the U.S. annually;⁷ and

¹ <https://data-openjustice.doj.ca.gov/sites/default/files/2024-07/Crime%20In%20CA%202023f.pdf>

² <https://judiciary.house.gov/media/in-the-news/house-judiciary-report-faults-biden-admin-release-alleged-ms-13-member-now>

³ <https://kfoxtv.com/news/instagram/report-tren-de-aragua-member-arrested-for-sex-trafficking-migrant-at-gateway-hotel-la-barbie-el-paso-texas-gang-estefania-primera-border-patrol-dps-border-migrants>; and <https://www.foxnews.com/us/colorado-video-shows-tren-de-aragua-gang-beating-apartment-complex-worker-extortion-bid-company-says>

⁴ <https://kdvr.com/news/local/ice-16-detained-in-aurora-are-suspected-tren-de-aragua-associates>

⁵ <https://kvia.com/news/border/2024/09/10/inside-a-downtown-el-paso-hotel-that-is-reportedly-housing-tren-de-aragua-gang-members/>

⁶ [https://bjs.ojp.gov/library/publications/human-trafficking-data-collection-activities-2024#:~:text=The%20number%20of%20persons%20prosecuted,to%201%2C118%20persons%20in%202022](https://bjs.ojp.gov/library/publications/human-trafficking-data-collection-activities-2024#:~:text=The%20number%20of%20persons%20prosecuted,to%201%2C118%20persons%20in%202022;); and <https://kfoxtv.com/news/instagram/report-tren-de-aragua-member-arrested-for-sex-trafficking-migrant-at-gateway-hotel-la-barbie-el-paso-texas-gang-estefania-primera-border-patrol-dps-border-migrants>

⁷ <https://www.congress.gov/118/meeting/house/116344/documents/HHRG-118-JU08-20230913-SD003.pdf>

WHEREAS, human trafficking, which results in sex trafficking, hurts women and children the most⁸ and has caused over 320,000 immigrant children to go missing in the U.S. and are now completely unaccounted for and unable to be protected;⁹ and

WHEREAS, according to the U.S. Department of Homeland Security, California leads the nation with the highest illegal immigrant population of any other state – with 2,600,000 in 2022. (See Bryan Baker and Robert Warren, Office of Homeland Security Statistics *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018–January 2022* (April 2024).)¹⁰

WHEREAS, Protecting the City’s 200,000 residents from crime and lawlessness is of the greatest import to, and of the highest order for, Huntington Beach’s City leaders and its Police Department. Huntington Beach is the 23rd largest of 482 cities in the State of California.

WHEREAS, the City of Huntington Beach has always effectively fully employed and deployed through its Police Department every possible method and resource available for combatting crime in our City; yet the State of California took measures to hinder local law enforcement efforts with the passage of SB 54, which prohibits local police departments from communicated and coordinating with federal agencies on certain arrests to fully enforce all laws, including federal laws; and

WHEREAS, The State’s “Sanctuary State Law” directly conflicts with U.S. federal immigration laws, including but not limited to Title 8 U.S. Code Sections 1324, 1373, and Title 18 U.S. Code Sections 371, and 372. California’s Sanctuary State Law not only limits the ability of City officials, including Huntington Beach Police personnel, to engage in fullest of effective law enforcement practices, but it directs City officials, including Huntington Beach Police personnel, to *violate U.S. federal immigration laws*, including and among others, Title 8 U.S. Code Sections 1324, 1373, and Title 18 U.S. Code Sections 371, and 372; and

WHEREAS, the State of California, neither through SB 54 nor any other law, can compel the City of Huntington Beach or its officials to be limited in ability to protect the 200,000 residents of Huntington Beach from crime, nor be limited by State law in ability to employ and deploy every law enforcement measure to protect its residents to the fullest extent possible, nor be compelled to violate any federal laws in the execution of their municipal functions; and

WHEREAS, the City of Huntington Beach is a Charter City, distinct and separate from the State when it comes to “the constitution, regulation, and government of the city police force”¹¹; and the City’s Police Department and other Departments of the City, such as the City Manager’s Office, the City Council, and City Attorney and Prosecutor’s Office have an affirmative duty to not violate any State or federal laws; and

⁸ <https://nypost.com/2021/04/17/how-bidens-border-policy-will-increase-child-sex-trafficking-to-us>

⁹ <https://nypost.com/2024/08/21/us-news/biden-harris-admin-loses-track-of-320000-migrant-children>

¹⁰ https://ohss.dhs.gov/sites/default/files/2024-06/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf

¹¹ Cal., Const., Article XI, Section 5(b)(1)

WHEREAS, Governor Gavin Newsom has taken a series of substantial steps to incentivize the inflow of illegal immigration into California, and to protect and harbor illegal immigrants, with the implementing of policies and laws to: hire illegal immigrants in jobs in State government¹², give illegal immigrants taxpayer funded downpayments of \$150,000 to buy homes¹³, spend \$2.3 million of taxpayer money to support the relocating and settling of illegal immigrants in rural areas of the State¹⁴, give illegal immigrants home mortgage aid to buy homes¹⁵, newly allocating \$25 million in taxpayer funded legal defense fund for illegal immigrants to fight the federal government's announced crackdown on illegal immigration, which seeks to combat the violent crimes committed against U.S. citizens¹⁶, and the list goes on; and

WHEREAS, Mayor of Los Angeles Karen Bass, in keeping with Governor Newsom's policies on illegal immigration, recently announced that Los Angeles is a Sanctuary City, and she seeks to protect, defend, provide for, and actively harbor illegal immigrants; and

WHEREAS, the suspect arrested with 'flamethrower' near one of the recent, devastating Los Angeles fires is an illegal immigrant "who will likely be protected by California's sanctuary city status;"¹⁷ and

WHEREAS, federal immigration law, specifically Title 8 U.S. Code Section 1324 provides that it is a federal crime to assist, transport, or harbor aliens entering the country illegally, and specifically a crime when one "conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation"¹⁸, and Section 1324 makes it a crime to hire an illegal alien¹⁹; and

WHEREAS, by Title 8 U.S. Code Section 1324, both Governor Newsom's statewide illegal immigrant policies and Mayor Bass's citywide policies violate federal immigration law under Title 8 U.S. Code Section 1324 by the incentivizing the inflow of illegal immigration, by harboring illegal immigrants by working to keep them in place out of reach of federal authorities,

¹² <https://reformcalifornia.org/news/reform-california-slams-bill-to-hire-illegal-immigrants-in-ca-state-government>

¹³ <https://www.hoover.org/research/californias-one-party-state-and-housing-subsidies-undocumented-migrants>

¹⁴ <https://business.ca.gov/supporting-californias-rural-communities-2-3-million-in-grants-to-further-expand-immigrant-integration-in-rural-regions>

¹⁵ <https://www.latimes.com/california/story/2024-08-29/california-lawmakers-approve-home-mortgage-aid-to-undocumented-immigrants>

¹⁶ <https://www.nationalreview.com/news/california-governor-newsom-requests-25-million-from-legislature-for-anti-trump-litigation-fund>

¹⁷ <https://nypost.com/2025/01/13/us-news/suspect-arrested-with-flamethrower-near-kenneth-fire-is-an-illegal-immigrant-report>

¹⁸ <https://www.justice.gov/archives/jm/criminal-resource-manual-1907-title-8-usc-1324a-offenses>

¹⁹ <https://www.justice.gov/archives/jm/criminal-resource-manual-1908-unlawful-employment-aliens-criminal-penalties>

and by implementing policies to hire illegal immigrants into California government, all in violation of Section 1324; and

WHEREAS, in an opinion by the California Attorney General in 1992 examining a California city's local sanctuary ordinance, the Attorney General stated that sanctuary law is preempted by 8 U.S.C. § 1324. CA Attorney General Opinions, 75 Ops. Cal. Atty. Gen. 270 (Nov. 19, 1992). The California Attorney General concluded, "Due to the supremacy clause of the United States Constitution, a city may not prohibit its officers and employees from cooperating in their official capacities with Immigration and Naturalization Service investigation, detention, or arrest procedures relating to alleged violations of the civil provisions of the federal immigration laws." (*Id.* at 270.);²⁰ and

WHEREAS, the Court of Appeal in California has already held that "Where otherwise warranted investigation by local officers leads to evidence of a federal civil or criminal violation, the local authority has the right to exchange information with federal authorities; to deny such an exchange is not reasonable and rewards those federal violators fortunate enough to be arrested by local, rather than federal, officials." (*See Gates v. Superior Court*, 193 Cal.App.3d 205, at 219.); and

WHEREAS, the California Attorney General determined that a sanctuary ordinance "concerns a subject matter, immigration, wherein federal power to regulate is exclusive." (citing *De Canas v. Bica*, 424 U.S. 351, 354-55 (1975)).²¹ Federal preemption occurs when the local enactment "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).); and

WHEREAS, "A *direct* conflict with a federal or state statute or regulation presents a separate and distinct basis for the preemption of a local ordinance." (CA Attorney General Opinions, 75 Ops. Cal. Atty. Gen. at 276, n. 9 (citations omitted).)²²

WHEREAS, local law enforcement agencies and city officials are at liberty, or should be, to not only comply with all federal laws, including Title 8 U.S. Code Section 1324, and elect to cooperate with federal agencies for the betterment of their cities and the protection of their residents.

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

SECTION 1. The City of Huntington Beach is hereby not a Sanctuary City; and

SECTION 2. The City of Huntington Beach, its Police Department, other Departments, and its officials are obligated to, and will, follow all federal laws, including immigration laws, including Title 8 U.S. Code Sections 1324, 1373, and Title 18 U.S. Code Sections 371, and 372; and

²⁰ <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

²¹ <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

²² <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

SECTION 3. The City of Huntington Beach, its Police Department, other Departments, and its City officials shall employ and deploy every means and resource necessary to combat crime and protect the citizens of Huntington Beach, including coordinating and communicating with federal law enforcement agencies and honoring ICE detainees; and

SECTION 4. The City of Huntington Beach, its Police Department, other Departments, and City officials, shall cooperate with the new Trump Administration, Border Czar Tom Homan, and any federal agencies to increase local law enforcement efforts, combat all crimes, and increase public safety, by complying with all federal laws, including but not limited to, Title 8 U.S. Code Sections 1324, 1373, and Title 18 U.S. Code Sections 371, and 372; and

SECTION 5. The City Attorney shall take any legal action necessary to preserve the City's rights herein and to protect and defend City Officials in the discharge of their duties pursuant to this Resolution, including but not limited to taking any legal action necessary against any contrary action brought by the State against the provisions in this Resolution.

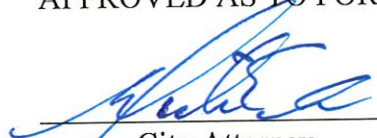
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 21st day of January 2025.

Mayor

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

Acting City Manager



City Attorney