

A RESOLUTION

23-237

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to amend An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sanctuary Values Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists an immediate need to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests from United States Immigration and Customs Enforcement ("ICE").

(b) Immigrants are a valuable and essential part of the District. With increased immigration enforcement across the country, including in the District, it is critical that the District government remains committed to protecting our residents, regardless of their immigration status.

(c) The District has a responsibility to ensure that all residents are respected and able to interact with public safety officials without fear of adverse civil immigration action.

(d) The Metropolitan Police Department provides police services to all residents of the District, regardless of immigration status, and is prohibited from inquiring into an individual's immigration status for the purpose of enforcing civil immigration laws.

(e) The Executive has also supported the District's immigrant community by funding legal services for immigrant residents.

(f) Section 7 of An Act To create a Department of Corrections in the District of Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07) ("the Act"), authorizes the Department of Corrections ("DOC") to hold individuals in its custody past their release dates, pursuant to a detainer request from ICE, only when certain criteria are met. When passed in 2012, the Act was one of the first policies in the country to limit compliance with immigration detainer requests. However, current law must now be reconsidered to more fully protect the District and its residents. Since passage of the Act, ICE's practices have evolved to include requesting notification of individuals' release dates, in addition to or instead of holds. In addition, multiple federal courts have held that ICE detainer requests to hold

individuals violate the Fourth Amendment, and that complying jurisdictions may be held liable. *See e.g., Galarza v. Szalczyk*, 745 F.3d 634 (3rd Cir. 2014).

(g) DOC's current policy is to provide notification to ICE of individuals' release dates pursuant to detainer requests. On August 23, 2019, the *Washington City Paper* reported that between January 2016 and June 2019, DOC transferred 43 individuals to ICE custody. Based on reports from community members and service providers, DOC has assisted in the detention of many more individuals after their release from DOC by notifying ICE of release dates and times.

(h) Collaborating with ICE, including by complying with detainer requests, does not promote public safety. ICE has created an unsafe, fearful environment for the District's immigrant residents. When the District cooperates with ICE, trust in District agencies by the immigrant community erodes, and public safety is compromised. Immigrant residents become less likely to seek the help of District agencies, particularly law enforcement.

(i) An immigration detainer request is not a criminal detainer issued by a federal judge, but rather a request issued by a federal immigration agent for civil immigration violations. In fact, detainer requests are often made without a probable cause determination into an individual's immigration status and are not subject to review by a federal judge. There is no legal requirement that a local jurisdiction comply with a federal immigration detainer request.

(j) Emergency legislation is required to explicitly limit the District's cooperation with federal immigration agencies, including by complying with detainer requests from ICE, absent a judicial warrant for a violation of criminal law or an order issued by a federal judge.

(k) In passing this emergency legislation, the District would join numerous states, cities, and counties across the nation in taking a stand on cooperation with federal immigration agencies absent judicial warrants or orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sanctuary Values Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.