

SENATE BILL NO. 223—SENATORS CANCELA, SEGERBLOM, FORD, RATTI, DENIS; ATKINSON, MANENDO, PARKS, SPEARMAN AND WOODHOUSE

FEBRUARY 27, 2017

JOINT SPONSORS: ASSEMBLYMEN BILBRAY-AXELROD, BROOKS, JAUREGUI AND MONROE-MORENO

Referred to Committee on Judiciary

SUMMARY—Restricts certain state and local governmental agencies from performing certain actions relating to immigration enforcement. (BDR 14-626)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ***[omitted material]*** is material to be omitted.

AN ACT relating to criminal procedure; restricting certain state and local governmental agencies from performing certain actions relating to immigration enforcement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill prohibits a state or local law enforcement agency, school police unit or
2 campus police department from: (1) using its resources to conduct certain activities
3 for the purposes of immigration enforcement, including, without limitation,
4 detaining a person for, or transferring custody of a person to, federal immigration
5 authorities and responding to certain other requests by, and providing assistance to,
6 those authorities except under certain circumstances; (2) making a database, or
7 information therein, of the agency, unit or department available to any person for
8 the purpose of immigration enforcement; and (3) with certain exceptions,
9 employing a peace officer who performs the functions of an immigration officer or
10 placing a peace officer under the supervision of a federal agency. This bill does not
11 prevent a state or local law enforcement agency, school police unit or campus
12 police department from responding to a request from federal immigration
13 authorities for information about a person's criminal history.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 171 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. No state or local law enforcement agency, school police
4 unit or campus police department shall:***

5 ***(a) Use money, facilities, property, equipment or personnel of
6 the agency, unit or department to investigate, interrogate, detain,
7 detect or arrest a person for the purposes of immigration
8 enforcement, including, without limitation:***

9 ***(1) Inquiring into or collecting information about the
10 immigration status of a person.***

11 ***(2) Detaining a person on the basis of a hold request,
12 except where there is an independent finding of probable cause.***

13 ***(3) Responding to a notification request or transfer request.***

14 ***(4) Providing or responding to a request for nonpublic
15 personal information about a person, including, without
16 limitation, information about the person's home address, work
17 address or date of release from custody.***

18 ***(5) Making an arrest on the basis of a civil immigration
19 warrant, except where there is an independent finding of probable
20 cause.***

21 ***(6) Giving a federal immigration authority access to
22 interview a person who is in custody, except pursuant to a judicial
23 warrant and, if the person is represented by counsel:***

24 ***(I) Notice is provided to counsel; and***

25 ***(II) Counsel is provided the opportunity to be present
26 during the interview.***

27 ***(7) Assisting a federal immigration authority in the
28 activities described in 8 U.S.C. § 1357(a)(3).***

29 ***(8) Performing the functions of an immigration officer,
30 whether pursuant to 8 U.S.C. § 1357(g) or any other law,
31 regulation or policy, whether formal or informal.***

32 ***(b) Make any database of the agency, unit or department,
33 including a database which is maintained for the agency, unit or
34 department by a private vendor, or the information included
35 therein other than information regarding a person's citizenship or
36 immigration status, available to any person for the purpose of
37 immigration enforcement. A person who is provided access to that
38 database or information shall certify in writing that the database
39 or information, as applicable, will not be used except in
40 accordance with the provisions of this paragraph.***

41 ***(c) Place a peace officer under the supervision of a federal
42 agency or employ a peace officer who performs the function of an***



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1 *immigration officer pursuant to 8 U.S.C. § 1357(g), except to the*
2 *extent that the peace officer remains subject to the laws of this*
3 *State as they govern the conduct of peace officers and the policies*
4 *of the agency, unit or department which employs the peace officer.*

5 *2. Nothing in this section shall be construed to prevent any*
6 *state or local law enforcement agency, school police unit or*
7 *campus police department from responding to a request from a*
8 *federal immigration authority for information about a specific*
9 *person's prior criminal arrests or convictions where otherwise*
10 *allowed by the laws of this State.*

11 *3. Notwithstanding any other provision of law, no state or*
12 *local law enforcement agency, school police unit or campus police*
13 *department shall transfer the custody of a person to a federal*
14 *immigration authority for the purposes of immigration*
15 *enforcement or detain a person at the request of a federal*
16 *immigration authority for the purposes of immigration*
17 *enforcement without a warrant. This subsection does not limit the*
18 *prohibitions set forth in subsection 1.*

19 *4. As used in this section:*

20 *(a) "Campus police department" has the meaning ascribed to*
21 *it in NRS 179D.015.*

22 *(b) "Civil immigration warrant" means a warrant for a*
23 *violation of federal civil immigration law, including, without*
24 *limitation, a civil immigration warrant that is entered in a*
25 *database of the National Crime Information Center.*

26 *(c) "Federal immigration authority" means any officer,*
27 *employee or person who is paid by or acting as an agent of:*

28 *(1) The United States Immigration and Customs*
29 *Enforcement or any division thereof;*

30 *(2) The United States Customs and Border Protection or*
31 *any division thereof; or*

32 *(3) The United States Department of Homeland Security or*
33 *any other component thereof and is charged with immigration*
34 *enforcement.*

35 *(d) "Hold request" means a request by a federal immigration*
36 *authority that a state or local law enforcement agency, school*
37 *police unit or campus police department maintain custody of a*
38 *person who is in the custody of the agency, unit or department, as*
39 *applicable, beyond the time the person would otherwise be eligible*
40 *for release in order to facilitate the transfer of custody of the*
41 *person to the federal immigration authority and includes, without*
42 *limitation, Department of Homeland Security Form I-247D.*

43 *(e) "Immigration enforcement" includes, without limitation,*
44 *any and all efforts to investigate, enforce or assist in the*
45 *investigation of any federal civil or criminal immigration law that*



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1 *penalizes a person's presence in, entry or reentry to, or*
2 *employment in the United States, including, without limitation, a*
3 *violation of 8 U.S.C. § 1253, 1324c, 1325 or 1326.*

4 *(f) "Independent finding of probable cause" means:*

5 *(1) A warrant which is based upon probable cause and*
6 *which is issued by a federal judge, federal magistrate judge or a*
7 *neutral and independent adjudicator; or*

8 *(2) A determination which is based upon clear and*
9 *convincing evidence and which is made by a neutral and*
10 *independent adjudicator,*

11 *↳ that authorizes a federal immigration authority to take into*
12 *custody the person who is the subject of the warrant or*
13 *determination, as applicable.*

14 *(g) "Judicial warrant" means a warrant which is based upon*
15 *probable cause and which is issued by a federal judge, a federal*
16 *magistrate judge or an equivalent officer in the judicial branch of*
17 *the Federal Government.*

18 *(h) "Notification request" means a request by a federal*
19 *immigration authority that a state or local law enforcement*
20 *agency, school police unit or campus police department inform the*
21 *requesting federal entity, in advance of the public, of the date and*
22 *time of release from the custody of the agency, unit or department,*
23 *as applicable, and includes, without limitation, Department of*
24 *Homeland Security Form I-247N.*

25 *(i) "Transfer request" means a request by a federal*
26 *immigration authority that a state or local law enforcement*
27 *agency, school police unit or campus police department facilitate*
28 *the transfer of custody of a person who is in the custody of the*
29 *agency, unit or department, as applicable, to the federal*
30 *immigration authority and includes, without limitation,*
31 *Department of Homeland Security Form I-247X.*

32 **Sec. 2.** Any agreement in existence on July 1, 2017, that
33 conflicts with the provisions of paragraph (b) of subsection 1 of
34 section 1 of this act is terminated on July 1, 2017.

35 **Sec. 3.** This act becomes effective on July 1, 2017.

