

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1949

By: Cruz

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5
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;
8 prohibiting jails from using agency resources for
9 immigration enforcement purposes; providing list of
10 prohibited acts; authorizing jails to perform certain
immigration-related functions; defining terms;
11 providing for codification; and providing an
12 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 16b of Title 57, unless there is
16 created a duplication in numbering, reads as follows:

17 A. The keeper of a county jail, municipal jail or jail operated
18 by a regional jail commission shall not:

19 1. Use agency monies or personnel to investigate, interrogate,
20 detain, detect or arrest persons for immigration enforcement
21 purposes, including any of the following:

- 22 a. inquiring into an individual's immigration status,
23 b. detaining an individual on the basis of a hold
24 request,

- c. providing information regarding the release date of an individual or responding to requests for notification by providing release dates or other information unless that information is available to the public,
- d. providing personal information, as defined in Section 3113.1 of Title 74 of the Oklahoma Statutes, about an individual, including, but not limited to, the home address or work address of an individual, unless that information is available to the public,
- e. making or intentionally participating in arrests based on civil immigration warrants,
- f. performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation or policy, whether formal or informal;

2. Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All peace officers remain subject to Oklahoma law governing conduct of peace officers and the policies of the employing agency;

3. Use immigration authorities as foreign language interpreters for law enforcement matters relating to individuals in custody;

1 4. Transfer an individual to immigration authorities unless
2 authorized by a judicial warrant or judicial probable cause
3 determination;

4 5. Provide office space exclusively dedicated for immigration
5 authorities for use within a county jail, municipal jail or jail
6 operated by a regional jail commission; or

7 6. Contract with the federal government for use of Oklahoma law
8 enforcement agency facilities to house individuals as federal
9 detainees.

10 B. Notwithstanding the limitations provided for in subsection A
11 of this section, this section does not prevent any county jail,
12 municipal jail or jail operated by a regional jail commission from
13 doing any of the following:

14 1. Investigating or detaining a person upon reasonable
15 suspicion or arresting a person for a violation of Section 1326(a)
16 of Title 8 of the United States Code that may be subject to the
17 enhancement specified in Section 1326(b)(2) of Title 8 of the United
18 States Code and that is detected during an unrelated law enforcement
19 activity. Transfers to immigration authorities are permitted under
20 this paragraph only in accordance with paragraph 4 of subsection A
21 of this section;

22 2. Responding to a request from immigration authorities for
23 information about a specific person's criminal history, including
24 previous criminal arrests, convictions, or similar criminal history

1 information accessed through the Oklahoma Law Enforcement
2 Telecommunications System (OLETS), where otherwise permitted by
3 state law; or

4 3. Giving immigration authorities access to interview an
5 individual in custody.

6 C. As used in this section:

7 1. "Civil immigration warrant" means any warrant for a
8 violation of federal civil immigration law and includes civil
9 immigration warrants entered in the National Crime Information
10 Center database;

11 2. "Hold request" means a federal Immigration and Customs
12 Enforcement (ICE) request that a local law enforcement agency
13 maintain custody of an individual currently in its custody beyond
14 the time he or she would otherwise be eligible for release in order
15 to facilitate transfer to ICE and includes, but is not limited to,
16 Department of Homeland Security (DHS) Form I-247D;

17 3. "Immigration enforcement" includes any and all efforts to
18 investigate, enforce or assist in the investigation or enforcement
19 of any federal civil immigration law and also includes any and all
20 efforts to investigate, enforce or assist in the investigation or
21 enforcement of any federal criminal immigration law that penalizes a
22 person's presence in, entry or reentry to, or employment in, the
23 United States;

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1 4. "Judicial probable cause determination" means a
2 determination made by a federal judge or federal magistrate judge
3 that probable cause exists that an individual has violated federal
4 criminal immigration law and that authorizes a law enforcement
5 officer to arrest and take into custody the individual; and

6 5. "Judicial warrant" means a warrant based on probable cause
7 for a violation of federal criminal immigration law and issued by a
8 federal judge or a federal magistrate judge that authorizes a law
9 enforcement officer to arrest and take into custody the person who
10 is the subject of the warrant.

11 SECTION 2. This act shall become effective November 1, 2021.

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