

2017 -- H 5093

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT

Introduced By: Representatives Corvese, O'Brien, Phillips, Ucci, and Edwards

Date Introduced: January 12, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 159

4 PUBLIC SAFETY AND PROTECTION ACT

5 **42-159-1. Title.**

6 This chapter shall be known and may be cited as the "Public Safety and Protection Act."

7 **42-159-2. Definitions.**

8 The following words and phrases when used in this chapter shall have the meaning given
9 to them in this section unless the context clearly indicates otherwise:

10 (1) "Federal immigration agency" means the United States Department of Homeland
11 Security, or its successor agency, and any of its subagencies, including the United States
12 Immigration and Customs Enforcement, the United States Customs and Border Protection, or any
13 other federal agency charged with the enforcement of immigration law.

14 (2) "Federal immigration official" means an official of the United States Department of
15 Homeland Security, or its successor agency, and any of its subagencies, including the United
16 States Immigration and Customs Enforcement, the United States Customs and Border Protection,
17 or any other federal agency charged with the enforcement of immigration law.

18 (3) "Immigration detainer" means a written request issued on behalf of the United States
19 Department of Homeland Security to another federal, state, or local law enforcement agency to

1 provide notice of release and to detain an individual based on an inquiry into immigration status
2 or an alleged violation of a civil immigration law, including detainers issued pursuant to 8 C.F.R.
3 287.7 and 8 C.F.R. 236.1, and on the Department of Homeland Security Form I-247
4 "Immigration Detainer – Notice of Action."

5 (4) "Inmate" means anyone in the custody of a law enforcement agency.

6 (5) "Law enforcement agency" means an agency in the state of Rhode Island charged
7 with enforcement of state, municipal, or federal laws, or with managing custody of detained
8 persons in the state, and includes municipal police departments, sheriff's departments, state
9 police, campus police, and the Rhode Island department of corrections.

10 (6) "Local government entity" means any city, town or other political subdivision of this
11 state.

12 (7) "Local government official" means any person holding public office or having official
13 duties as a representative, agent, or employee of a local government entity.

14 (8) "State entity" means any agency, commission, council, bureau, authority, office, or
15 board established under the laws of the state.

16 (9) "State official" means any person holding public office or having official duties as a
17 representative, agent, or employee of the state.

18 **42-159-3. Cooperation with federal immigration authorities.**

19 (a) No state or local government entity or official may prohibit, or in any way restrict,
20 any state or local government entity or official from sending to, or receiving from, the United
21 States Department of Homeland Security, or its successor agency, information regarding the
22 citizenship or immigration status, lawful or unlawful, of any individual.

23 (b) No state or local government entity or official may restrict taking any of the following
24 actions with respect to information regarding immigration status, lawful or unlawful, of any
25 individual:

26 (1) Sending such information to, or requesting or receiving such information from, the
27 United States Department of Homeland Security, or its successor agency;

28 (2) Maintaining such information;

29 (3) Exchanging such information with any other federal, state, or local government entity;

30 (4) Determining eligibility for any public benefit, service, or license provided by federal
31 law or a law of this state or its political subdivisions;

32 (5) Verifying a claim of residence or domicile if a determination of residence or domicile
33 is required under federal law or a law of this state or its political subdivisions or under a judicial
34 order issued pursuant to a civil or criminal proceeding in this state; or

1 (6) Confirming the identity of a person who is detained by law enforcement officials.

2 (c) All state and local government entities and officials shall fully comply with and, to the
3 full extent permitted by law, support the enforcement of federal immigration law.

4 (d) No state or local government entity or official may limit or restrict the enforcement of
5 federal immigration law, including, but not limited to, limit or restrict a state or local entity or
6 official from complying with an immigration detainer, limit or restrict a state or local entity or
7 official from providing a federal immigration official access to an inmate for interview, limit or
8 restrict a state or local entity or official from initiating an immigration status investigation, or
9 limit or restrict a state or local entity or official from providing a federal immigration official with
10 the incarceration status or release date of an inmate in custody of a state or local governmental
11 entity.

12 (e) Notwithstanding any other law, a law enforcement agency may securely transport an
13 alien who the agency has received verification from the United States Department of Homeland
14 Security is unlawfully present in the United States and who is in the agency's custody to a federal
15 facility in Rhode Island or to any other point of transfer into federal custody that is outside the
16 jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial
17 authorization before securely transporting an alien who is unlawfully present in the United States
18 to a point of transfer that is outside of Rhode Island.

19 **42-159-4. Duty to report.**

20 Every person holding public office or having official duties as a representative, agent, or
21 employee of the state or a local government entity shall have a duty to report a violation of §42-
22 159-3. Any such person who willfully fails to report any violation of this chapter when the person
23 knows that this chapter is being violated shall be guilty of a misdemeanor, which shall be
24 punishable by imprisonment for a term not to exceed one year or a fine of not more than one
25 thousand dollars (\$1,000), or both.

26 **42-159-5. Resident private right of actions; Penalties.**

27 (a) Any resident of the state who is a United States citizen or legal permanent resident
28 may bring an action in the superior court to assert a violation of §42-159-3. For any action under
29 this section, the court shall expedite the action, including assigning the hearing at the earliest
30 practicable date.

31 (b) If there is a judicial finding that a state or local government entity or official has
32 violated §42-159-3, the court shall enjoin such policy or practice and order that such entity or
33 official pay a civil penalty of not less than one thousand dollars (\$1,000) and not more than five
34 thousand dollars (\$5,000) for each day that the policy or practice remains in effect.

1 (c) The court shall collect the civil penalty prescribed in subsection (b) of this section and
2 remit the same to the general fund.

3 (d) The court may award court costs and reasonable attorney fees to any person that
4 substantially prevails by adjudication on the merits in a proceeding brought pursuant to this
5 section.

6 **42-159-6. Resident complaint; Penalties.**

7 (a) The state attorney general shall prescribe a complaint form for a person to allege a
8 violation of §42-159-3. This subsection shall not be construed to prohibit the filing of anonymous
9 complaints that are not submitted on a prescribed complaint form.

10 (b) On receipt of a complaint of a violation of §42-159-3, the attorney general shall
11 investigate whether a violation of §42-159-3 has occurred. The state police may assist in
12 investigating the complaint.

13 (c) If, after an investigation, the attorney general determines that the complaint is not
14 false or frivolous, the attorney general shall report the violation to the governor and state treasurer
15 and that state or local government entity shall not be eligible to receive any funds, grants, or
16 appropriations from the state until the attorney general has certified that such violation has
17 ceased.

18 **42-159-7. Implementation.**

19 This chapter shall be implemented in a manner consistent with federal laws regulating
20 immigration, protecting the civil rights of all persons, and respecting the privileges and
21 immunities of United States citizens.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT

1 This act would promote cooperation and assistance in the enforcement of immigration
2 laws concerning potential immigration law violations, would create a governmental duty to
3 investigate and report potential immigration violations, a private cause of action, and complaint
4 procedures. Finally, it would establish civil and criminal penalties for failure to further the active
5 enforcement of immigration laws.

6 This act would take effect upon passage.

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