

This bill:

- 1) Requires DMV to issue restricted identification cards to eligible applicants who are unable to verify their legal presence in the United States as authorized under federal law, commencing no later than January 1, 2024.
- 2) Establishes that information collected pursuant to this section is not a public record and shall not be disclosed by the department, except where necessary to comply with an order, warrant, or subpoena, each if issued by a court.
- 3) Establishes that documents provided by applicants to prove identity or residency pursuant to the provisions of this bill are not public record and shall not be disclosed except where necessary to comply with an order, warrant, or subpoena, each if issued by a court.
- 4) Requires identification cards to include a recognizable feature on the front of card, such as the letters "IC" instead of, and in the same font size as the letters "ID".
- 5) Requires identification cards to bear the following notice: "This card is not acceptable for official federal purposes. It does not establish eligibility for employment, voter registration, or public benefits.
- 6) Prohibits discrimination against a person because the person holds or presents an identification card issued under the provisions of this bill.
- 7) Prohibits the use of an identification card issued under the provisions of this bill from being used as evidence of an individual's citizenship or immigration status for any purpose.

COMMENTS:

- 1) *Purpose.* According to the author, "Identification cards enable inclusion and meaningful participation in our neighborhoods, cities, and our state. IDs allow one to open a bank account, obtain benefits, access healthcare, secure housing, and much more. However, if a person who is undocumented does not have meaningful access to a car or have the ability to take a driving test, they are rendered ineligible for a government-issued ID. Those individuals may rely on gym memberships or college/university IDs *if* they have access to those institutions. Otherwise, they can use a passport or consular ID to corroborate their identities, however, this is an often risky "outing" process for those who

are not legally present in the United States. Individuals with mobility issues, disabilities such as epilepsy, and those who are older and develop degenerative eye, muscular, or cognitive diseases are not able to obtain driver's licenses and thus, do not have access to a state government-issued ID. Additionally, undocumented people leaving incarceration are also unable to obtain an original AB 60 driver's license because they cannot access a driving test in prison. AB 1766 will expand ID access for all, regardless of immigration status. Under this bill, California ID eligibility will be expanded to approximately 1.6 million undocumented people."

- 2) *AB 60 background.* AB 60 (Alejo), Chapter 524, Statutes of 2013, permits a person unable to provide a social security number (SSN) to submit several alternative forms of documentation to show proof of identity and obtain a driver's license. AB 60 declared that discrimination against AB 60 license holders is a violation of the Unruh Civil Rights Act, which outlaws discrimination by a business establishment. The law also bars authorities from inferring the citizenship or immigration status of the license holder as a basis for criminal investigation proceedings. The statute has since been amended by AB 1660 (Alejo), Chapter 452, Statutes 2014 and Government Code Section 11135 to include additional anti-discrimination protections and require the California Research Bureau (CRB) to "compile and submit to the Legislature and the Governor a report of any violations" of these anti-discrimination provisions.

Likewise, prior to the passage of AB 60, several cities in California passed laws creating a municipal ID card. San Francisco County began issuing ID cards to undocumented immigrants in 2009, followed by the City of Oakland in 2013, and the City of Richmond in 2014.

AB 1766 would require the DMV, no later than January 1, 2024, to issue ID cards to any person who is unable to submit proof of lawful presence in the United States, as authorized under federal law, if they are otherwise able to demonstrate proof of their identity and California residency. It is important to note that these criteria are now used by DMV to issue driver's licenses (to individuals who qualify, but are not DACA participants).

- 3) *DMV Data and ICE.* In recent years, there has been a concern about Immigration and Customs enforcement (ICE) using the DMV database to find the address of undocumented immigrants. The American Civil Liberties Union (ACLU) and the National Immigration Law Center (NILC) released a report in

December 2018 for the purpose of providing “as much information as possible about how and what information is shared with the Department of Homeland Security (DHS) and its agencies, so that California residents can effectively weigh the risks and benefits of obtaining a driver’s license.” According to the report, between January 1st, 2017 and April 10th, 2018, DHS agencies made 594 inquiries to the DMV driver’s license database and 1,085 inquiries to the DMV vehicle registration database by telephone. In 2017, DHS agencies made 113 inquiries to the driver’s license database and 1,149 inquiries to the vehicle registration database through online access; and in the first three months of 2018, those agencies made 80 inquiries to the driver’s license database and 341 inquiries to the vehicle registration database.

To address this issue, the Legislature passed AB 1747 (Gonzalez) Chapter 589, Statutes of 2019, which limits the use of the state’s telecommunications system containing criminal history information for immigration enforcement purposes, and for purposes of investigating immigration crimes solely because criminal history includes violation of federal immigration. Unlike AB 60 licenses, which are comingled with, and share the same identification markers as citizens or legal residents who opted not to get a REAL ID Card, this bill creates an ID card separate from citizens and legal residents ID cards and bears the identifier “IC” on the card, as well as a notification that: “This card is not acceptable for official purposes. It does not establish eligibility for employment, voter registration, or public benefits.”

- 4) *Committee Concerns.* As written, section (j) and (k) of AB 1766 provide that, absent a necessity to comply with an order, warrant, or subpoena, issued by a court, the information collected by the DMV is not a public record and shall not be disclosed. The California Consumer Privacy Act, as well as provisions of the Vehicle Code itself, contain language that limits disclosure of personal information and records by government agencies; allowing them to be disclosed only in response to court orders and warrants. In application, if an individual who was issued an identification card pursuant to AB 1766 was to present their identification card to an ICE officer, the data would come up as “unavailable.” This may heighten suspicion that the individual may be undocumented. Although these provisions were likely added to help further protect the privacy of the individual, the provisions may have the unintended consequence of bringing more attention to the individual than they would if their data was public record.

- 5) *Double Referral.* This bill is also referred to the Senate Judiciary committee.

RELATED LEGISLATION:

AB 1747 (Gonzalez, Chapter 589, Statutes of 2019) — this bill limited the use of the state's telecommunications system containing criminal history information for immigration enforcement purposes, as defined, and for purposes of investigating immigration crimes solely because criminal history includes a violation of federal immigration law.

AB 1660 (Alejo, Chapter 452, Statutes 2014) — this bill made it a violation of the California Fair Housing and Employment Act (FEHA) for an employer or other covered entity to discriminate against an individual because he or she holds or presents a specified driver's license.

AB 60 (Alejo, Chapter 524, Statutes of 2013) — this bill required the Department of Motor Vehicles (DMV) to issue driver's licenses to persons who are ineligible for a Social Security Number (SSN) if additional documentation is provided.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 8.)

SUPPORT:

Alianza
Alliance for A Better Community
Asian Americans Advancing Justice - California
Asian Law Alliance
Bend the Arc: Jewish Action
Buen Vecino
California Coalition for Women Prisoners
California Federation of Teachers Afl-cio
California Immigrant Policy Center
California Latinas for Reproductive Justice
California Religious Action Center of Reform Judaism
California Rural Legal Assistance Foundation, INC.
Catholic Charities of The Diocese of Santa Rosa
Central American Resource Center- Carecen- of California
Centro Community Hispanic Association (centro Cha Inc.)
Clinica Monsignor Oscar A. Romero
Coalition for Humane Immigrant Rights (CHIRLA) (UNREG)
Communities United for Restorative Youth Justice (CURYJ)

Community Action Board of Santa Cruz County, INC.
Community Legal Services in East Palo Alto
Disability Rights California
Dolores Huerta Foundation
Drug Policy Alliance
Friends Committee on Legislation of California
Ice Out of Marin
Immigrant Legal Resource Center
Indivisible CA Statestrong
Indivisible Resisters Walnut Creek
Indivisible San Francisco
Indivisible San Jose
Initiate Justice
Jakara Movement
Kids in Need of Defense (KIND)
Law Foundation of Silicon Valley
Legal Aid Society of San Mateo County
Legal Services for Children
Long Beach Immigrant Rights Coalition
National Association of Social Workers, California Chapter
Norcal Resist
Oasis Legal Services
Orange County Equality Coalition
Parent Voices San Francisco
Pico California
Pomona Economic Opportunity Center
Public Counsel
Public Law Center
Rainbow Beginnings
San Diego Immigrant Rights Consortium
Secure Justice
Sister Warriors Freedom Coalition
South Bay People Power
Successful Reentry, LLC
Thai Community Development Center
The Young Women's Freedom Center
Vision Y Compromiso

OPPOSITION:

None received.

-- END --