Date of Hearing: April 20, 2021

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 937 (Carrillo) – As Amended March 22, 2021

As Proposed to be Amended

SUBJECT: IMMIGRATION ENFORCEMENT

KEY ISSUE: SHOULD SEVERAL PROVISIONS OF EXISTING LAW THAT LIMIT THE ABILITY OF STATE AND LOCAL LAW ENFORCEMENT TO COOPERATE AND SHARE INFORMATION WITH FEDERAL IMMIGRATION AUTHORITIES BE STRENGTHENED AND EXPANDED SO THAT THEY, AMONG OTHER THINGS, ALSO APPLY TO ALL STATE AND LOCAL GOVERNMENT AGENCIES AS WELL AS THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION?

SYNOPSIS

This bill, the Voiding Inequality and Seeking Inclusion for Our Immigrant Neighbors (VISION) Act, would prohibit all state and local agencies (including law enforcement agencies and the California Department of Corrections and Rehabilitation) from doing any of the following:

1) *Arresting or assisting with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose in any manner.*
2) *Using immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.*

These prohibitions would apply, according to the bill, notwithstanding any contrary provisions in existing law—specifically including those in the California Values Act--which allow for state and local law enforcement agencies to cooperate with federal immigration authorities under certain specified and limited circumstances.

The analysis reviews the long history of ICE employing methods that range from inhumane to illegal, beginning at least as early as the Obama administration, worsening during the Trump administration, and continuing through today. The analysis explains why, even though the Values Act, current California law that limits law enforcement involvement in immigration enforcement activities, was adopted in reaction to the Trump administration's particularly cruel policies, even greater restrictions on the use of public resources to assist ICE, as proposed by the bill, are necessary. The analysis also addresses the fact that the bill does not amend or repeal the Values Act, but instead is a parallel statute, creating less than ideal clarity about how the two laws would interact. It discusses why the bill almost certainly does not violate the state constitution's reenactment clause, but could possibly be subject to a conflict preemption challenge, Finally, the analysis discusses the fact that the bill imposes civil liability on government employees and agencies for violating the bill's prohibitions, an exception to the general rule of governmental immunity.

In order to address the possible, but remote, concern that some aspects of the bill could raise conflict preemption concerns, the author proposes to make two clarifying amendments. First, the

author intends to amend the bill to add additional intent language, clarifying that it is the intent of the bill to be consistent with federal law. Second, the author proposes to add a severability clause to the bill so that in the event that any portion of the bill should be invalidated, other portions of the bill would remain in effect.

The bill, which recently was approved by the Assembly Public Safety Committee, is co-sponsored by a large coalition of social justice organizations led by Asian Americans Advancing Justice – Asian Law Caucus and supported by dozens of civil rights, criminal justice reform, and immigrant advocacy organizations. It is opposed by three law enforcement organizations: California Police Chiefs Association, California State Sheriffs' Association, and Peace Officers Research Association of California (PORAC).

SUMMARY: Prohibits state and local law enforcement agencies from cooperating with federal immigration authorities, or assisting in the detention, deportation, interrogation, of an individual by immigration enforcement. Specifically, **this bill**:

1) Specifies that a state or local agency shall not arrest or assist with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose in any manner including, but not limited to, by notifying another agency or subcontractor thereof regarding the release date and time of an individual, releasing or transferring an individual into the custody of another agency or subcontractor thereof, or disclosing personal information, as specified, about an individual, including, but not limited to, an individual's date of birth, work address, home address, or parole or probation check in date and time to another agency or subcontractor thereof.

2) States that the prohibition described above shall apply notwithstanding any contrary provisions in the California Values Act, as specified, which allows law enforcement to cooperate with immigration authorities in limited circumstances.

3) Specifies that this bill does not prohibit compliance with a criminal judicial warrant.

4) Prohibits a state or local agency or court from using immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.

5) Defines the following terms for purposes of this bill:

    a) "Immigration enforcement" includes "any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States."

    b) "State or local agency" includes, but is not limited to, "local and state law enforcement agencies, parole or probation agencies, the Department of Juvenile Justice, and the Department of Corrections and Rehabilitation."

6) Specifies that in addition to any other sanctions, penalties, or remedies provided by law, a person may bring an action for equitable or declaratory relief in a court of competent jurisdiction against a state or local agency or state or local official that violates this section. A state or local agency or official that violates this section is also liable for actual and general damages and reasonable attorney's fees.

7) Repeals statutory provisions directing California Department of Corrections and Rehabilitation (CDCR) to implement and maintain procedures to identify inmates serving terms in state prison who are undocumented aliens subject to deportation.

8) Repeals statutory provisions directing CDCR and California Youth Authority to implement and maintain procedures to identify, within 90 days of assuming custody, inmates who are undocumented felons subject to deportation and refer them to the United States Immigration and Naturalization Service.

9) Repeals statutory provisions directing CDCR to cooperate with the United States Immigration and Naturalization Service by providing the use of prison facilities, transportation, and general support, as needed, for the purposes of conducting and expediting deportation hearings and subsequent placement of deportation holds on undocumented aliens who are incarcerated in state prison.

10) Repeals the statutory directive to include place of birth (state or country) in state or local criminal offender record information systems.

11) States that, to ensure an equitable opportunity for noncarceral, rehabilitative and diversionary dispositions or custody status to all persons involved in the criminal legal system, irrespective of immigration status, it is the intent of the Legislature to abrogate case law that is inconsistent with this value, including, but not limited to, *People v. Sanchez* (1987) 190 Cal.App.3d 224; *People v. Cisneros* (2000) 84 Cal.App.4th 352; *People v. Espinoza* (2003) 107 Cal.App.4th 1069; *People v. Arce* (2017) 11 Cal.App.5th 613.

12) Makes other findings and declarations.

EXISTING FEDERAL LAW:

1) Provides that any authorized immigration officer may at any time issue an Immigration Detainer-Notice of Action, to any other federal, state, or local law enforcement agency, which serves to advise another law enforcement agency that the Department of Homeland Security (DHS) seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien; the detainer requests that the notified agency advise the DHS, prior to release of the alien, in order for the DHS to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible. (8 C.F.R. Section 287.7 (a).)

2) Requires that, upon a determination by the DHS to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the DHS. (8 C.F.R. Section 287.7 (d).)

3) Authorizes the Secretary of Homeland Security to enter into agreements that delegate immigration powers to local police. (8 U.S.C. Section 1357 (g).)

4) States that notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual. (8 U.S.C. 1373 (a).)

5) States that notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States. (8 U.S.C. 1644.)

EXISTING STATE LAW:

1) Defines a "California law enforcement agency" to mean a state or local law enforcement agency, including school police or security departments, but not to include the Department of Corrections and Rehabilitation. (Government Code Section 7284.4 (a). All further statutory references are to the Government Code, unless otherwise indicated.)

2) Provides that a law enforcement official shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or local law, or local policy, and where permitted by the California Values Act. (Section 7282.5 (a).)

3) Prohibits a California law enforcement agency from performing a number of immigration-related activities, including the following:

    a) Using agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities. (Section 7284.6 (a)(1)(C).)

    b) Transferring an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with existing law. (Section 7284.6 (a)(4).)

4) Notwithstanding 3), above, allows any California law enforcement agency to do the following as long as it does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

    a) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of a specified immigration offense that is detected during an unrelated law enforcement activity.

    b) Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement

Telecommunications System (CLETS), where otherwise permitted by state law. (Section 7284.6 (b).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill, the Voiding Inequality and Seeking Inclusion for Our Immigrant Neighbors (VISION) Act, seeks to further the priorities of the State of California by prohibiting all public resources, including all state and local government agency personnel, facilities, and equipment, from being used to assist with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose. Specifically, this bill would prohibit all state and local agencies (including law enforcement agencies and the California Department of Corrections and Rehabilitation) from doing any of the following:

1) Arresting or assisting with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose in any manner, including the following:

    a) Notifying another agency or subcontractor thereof regarding the release date and time of an individual, releasing or transferring an individual into the custody of another agency or subcontractor thereof.

    b) Disclosing personal information about an individual, including, but not limited to, an individual's date of birth, work address, home address, or parole or probation check in date and time to another agency or subcontractor thereof.

2) Using immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.

These prohibitions would apply, according to the bill, notwithstanding any contrary provisions in existing law—specifically including those in the California Values Act--which allow for state and local law enforcement agencies to cooperate with federal immigration authorities under certain specified and limited circumstances.

The bill is therefore more restrictive than the Values Act in several ways. First, the bill prohibits disclosure or release of personal information about detainees to federal immigration authorities, even when the information is available to the public. Second, it prohibits the transfer of detainees to federal immigration, including in cases where there has been a probable cause determination and those in which the detainee has been convicted of one or more crimes specified in the Values Act; and third, it applies to the California Department of Rehabilitation, and all state and local government agencies, as well as all other state and local law enforcement agencies. Finally, in order to help enforce its restrictions, the bill imposes civil liability on public agencies and employees for violating its provisions.

Author's Statement. According to the author, the greater protections offered by this bill because of a well-documented history of immigration enforcement authorities abusing individuals who are in their custody:

> AB 937 helps California realize its promise of protecting immigrant rights and reforming our criminal justice system. . .. Immigration Detainees can find themselves housed in county jails and even private facilities anywhere in America, facilities beyond the oversight and accountability of the state of California where abuse and neglect is well documented. All Californians, regardless of citizenship status, should get the chance to reintegrate back into their communities and reunite with their families when they have paid their debt to society.

ICE regularly employs methods that range between inhumane and illegal. ICE was created in response to the tragic events of September 11, 2001, with a stated mission to protect the United States from cross-border crime and illegal immigration that threaten national security and public safety. However, critics claim that the agency has gained a notorious record of abuse, illegality, waste, and ineffectiveness in carrying out its intended purpose. ICE's abusive tactics are well-documented. They include the separation of toddlers from their parents, forced sterilization, and inhumane treatment in facilities. ICE has therefore earned a reputation amongst immigration advocates as a dishonest and racist agency that regularly ignores legal limits. (*See, e.g., Ms. L. v. ICE* (S.D. Cal.) No. 3:18-cv-00428, filed February 26, 2018; *Flores v. Garland* (C.D. Cal.), No. 2:85-cv-04544-DMG-AGR, filed June 26, 2020; *Crew et al. v. ICE* (D.D.C.), No. 1:20-cv-03120, filed October 29, 2020.)

ICE under the Obama administration. Immigration advocates began criticizing ICE during the George W. Bush. However, it was during the Obama administration that internal removal of immigrants by ICE reached what was then an all-time high. The Obama administration removed approximately 1,242,486 immigrants from the *interior* of the United States during its full eight years, averaging 155,311 removals per year. Data from the earlier Bush administration are more speculative, but they show an increase in deportations during the last half of President Bush's administration. This increase continued during President Obama's first term, before flattening and, finally, dropping rapidly in his second term. During his second term, President Obama responded to the outcry against the high rates of deportation, which led to a pronounced shift in focus to the removal of recent border crossers and criminals, rather than ordinary status violators apprehended in the interior of the U.S. As a result, interior removals decreased sharply from 181,798 in FY 2009 to 65,332 in FY 2016. Nevertheless, border removals stayed high and increased, from 207,525 to 279,022 over the same period. (*See* Transactional Records Access Clearinghouse, *The Role of ICE Detainers Under Bush and Obama* (Feb. 1, 2016), *available at* https://trac.syr.edu/immigration/reports/458/.) President Obama summarized this later policy as: "Felons, not families. Criminals, not children. Gang members, not a mom who's working hard to provide for her kids." (*See* Barack Obama, *Remarks by the President in Address to the Nation on Immigration* (Nov. 20, 2014), *available at* https://obamawhitehouse.archives.gov/the-press-office/2014/11/20/remarks-president-address-nation-immigration.)

ICE's changed priorities under the Trump administration. The Trump administration, however, changed the federal government's immigration enforcement priorities and tactics. Many of those changes emanate from Executive Order 13768: "Enhancing Public Safety in the Interior of the United States," which President Trump issued on January 25, 2017, five days after taking office. (Executive Order No. 13768, 82 Fed. Reg. 8799.) President Trump largely echoed President Obama in his rhetoric regarding his immigration enforcement priorities, stating that he intended to focus on criminals. His actual policies, however, dramatically expanded the list of immigration enforcement priorities to include virtually every undocumented person. Pursuant to executive orders from President Trump, on February 20, 2017, Department of Homeland

Security Secretary John Kelly issued a pair of memoranda changing immigration enforcement policy. In those memos, Secretary Kelly directed ICE to prioritize:

> Removable aliens who: (1) have been convicted of any criminal offense; (2) have been charged with any criminal offense that has not been resolved; (3) have committed acts which constitute a chargeable criminal offense; (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency; (5) have abused any program related to receipt of public benefits; (6) are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security. (*See* John Kelly, *Enforcement of the Immigration Laws to Serve the National Interest*, U.S. Department of Homeland Security (Feb. 20, 2017) at 2, *available at* https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf.)

ICE's role in family separations. On April 6, 2018, Attorney General Jeff Sessions notified all U.S. Attorney's Offices along the southwest border of a new "zero-tolerance policy" for both actual and attempted illegal entry into the United States by any individual, as provided under 8 U.S.C. Section 1325(a). The zero-tolerance policy directed these U.S. Attorney's Offices (which included specified districts in California, Arizona, New Mexico, and Texas) to adopt a policy of prosecuting all Department of Homeland Security (DHS) referrals of illegal entry or attempted illegal entry to the extent practicable. (*Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry*, U.S. Department of Justice Office of Public Affairs (Apr. 2018), *available at* https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry.) On May 7, 2018, Sessions elaborated on the policy by stating, "If you are smuggling a child then we will prosecute you, and that child will be separated from you as required by law. If you don't like that, then don't smuggle children over our border." (*Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration*, U.S. Department of Justice Office of Public Affairs (May 2018), *available at* https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions.)

Unaccompanied minors taken into DHS custody are supposed to be transferred to the custody of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services. ORR is then required to care for the children in accordance with the *Flores* Settlement Agreement. This Agreement sets the minimum nationwide standards for the detention, housing, and release of non-citizen juveniles who are detained by the government and, according to the Ninth Circuit United States Court of Appeals, "obliges the government to pursue a 'general policy favoring release' of such juveniles." (*Flores v. Sessions* (9th Cir. 2017) 862 F.3d 863.) *Flores* created a presumption in favor of release of the detained minor, and particularly favors release that results in family reunification. The Agreement provides that, unless immigration authorities determine the detention of a minor is required to secure the minor's timely appearance before the immigration court, or to ensure the safety of the minor or others, the authorities must release the minor from their custody without unnecessary delay, to a parent, legal guardian, or other person or entity as specified. (*Ibid.*)

Instead, as a result of the Trump administration's zero-tolerance policy, thousands of children were separated from their parents and housed in group facilities while their parents faced prosecution for illegal entry into the United States—a crime that may ultimately result in their

deportation. In response to this, on February 26, 2018, the American Civil Liberties Union (ACLU) filed *Ms. L. v. ICE* (S.D. Cal.), No. 3:18-cv-00428, a nationwide class action that sought to halt and undo the Trump administration's family separation policy. On June 26, 2018, the district court issued a preliminary injunction ordering the U.S. government to halt the family separation policy, and to reunify all families that had already been separated. The court also stayed the deportation of separated families. The case is currently ongoing.

However, it should be noted that another particularly cruel form of family separation also occurred under the Trump administration due to ICE. Many undocumented individuals live with family members in communities throughout the United States. As a result of increased enforcement and raids by ICE officials, such individuals have been apprehended and detained in detention centers, severing their connections to their loved ones, despite having no criminal record. (*See* Priscilla Alvarez, *Family separation and the Trump administration's immigration legacy* (Oct. 7, 2020), CNN, *available at* https://www.cnn.com/2020/10/07/politics/trump-family-separation/index.html.) Transactional Records Access Clearinghouse, a Syracuse University-based research organization, created a profile of detainees held in 217 ICE detention centers. As of June 30, 2018, ICE was holding 44,435 people in custody. Out of this group, 58 percent had no criminal convictions, while about 21 percent had committed a minor infraction, such a traffic violation; and 16 percent had committed what ICE considered a serious crime, which included offenses such as selling marijuana. (*See* Transactional Records Access Clearinghouse, *Profiling Who ICE Detains - Few Committed Any Crime* (Oct. 9, 2018), *available at* http://trac.syr.edu/immigration/reports/530/.)

The impact of these policies, particularly of family separation at the border, is ongoing. As of October 2020, hundreds of separated families had still not yet been reunited. Despite court orders to reunify these families (*See Ms. L v. ICE, supra*), poor record-keeping, increased criminal prosecutions of adult family members, and deportations of parents without their children have hindered reunification efforts. (*See* Kaitlyn Dickinson, *Parents of 545 children separated at the border cannot be found* (Oct. 21, 2020), New York Times, *available at* https://www.nytimes.com/2020/10/21/us/migrant-children-separated.html.) For a far more thorough review of ICE's history of abusing detainees, using deceptive tactics to carry out its raids, mismanaging its budget, misleading Congress, and struggling to carry out its core mission to protect the safety of the nation, please see the Committee's analysis of AJR 1 (Kalra), which proposes to abolish ICE after transferring its duties to other federal officers and agencies in an orderly fashion.

Now that Donald Trump is no longer president, why is the bill necessary? In 2017, motivated by the Trump administration's cruel and extreme immigration policies, California passed a number of measures to protect residents of the state, including undocumented immigrants. Among these were three "sanctuary bills": AB 450 (Chiu, Chap. 492, Stats. 2017, dealing with immigration inspection of workplaces), AB 103 (Committee on Public Safety, Chap. 17, Stats. 2017, imposing inspection requirements on facilities that house civil immigration detainees), and SB 54, also known as the "Values Act" (DeLeon, Chap. 495, Stats. 2017, limiting the cooperation between state and local law enforcement with federal immigration authorities). In response to a Trump administration challenge to the laws, the 9th Circuit Court of Appeals upheld most parts of all three of them. (*U.S. v. California* (9th Cir. 2019) 921 F.3d 865, cert. denied, *U.S. v. California* (2020) 141 S. Ct. 124.) And while Donald Trump's presidency may have inspired the Values Act, it is also true that the suffering and abuse of immigrant

communities inflicted by ICE that motivated the Legislature to enact SB 54 began long before the Trump administration and still persists today.

The recent rise in violence directed at the Asian Pacific Islander (API) Community is the latest development in a long history of bias and violence against marginalized communities, including by abuse of the immigration system. While the media and the public have focused on the recent rise of traumatic and horrendous interpersonal acts of violence against Asian and Pacific Islander American community members, it is also important to also recognize the less discussed large-scale and multi-generational impact of systemic violence against API communities. At such a time, California would be remiss to not reflect on and address its role in the criminalization, family separation, and perpetual punishment of API refugee communities. Southeast Asian refugees have been especially impacted by mass incarceration, ICE transfers, and deportation.

U.S. involvement in the Vietnam War and U.S.-led carpet bombing in Southeast Asia caused mass migration of refugees from Laos, Cambodia, and Vietnam to California. Southeast Asian refugees who resettled in California were generally housed in poor, hyper-criminalized, and under-resourced neighborhoods with little to no culturally competent support services. Southeast Asian refugee children – like other immigrants -- faced intense bullying. At the same time, all of these youth as well as those who were Black, indigenous, and people of color (BIPOC) struggled to survive the 1990s — a decade marked by a proliferation of local and national "tough on crime" policies, including mandatory minimum sentences, the "war on drugs" and sentencing children as adults in criminal proceedings.

In 1996, U.S. Congress passed an immigration bill that severely limited immigration relief for non-U.S. citizens with criminal convictions — including refugees and green card holders. By the time Southeast Asian refugee children, whose families survived famine and genocide, were teenagers, the school to prison to deportation pipeline was in full effect.

The perfect storm of draconian criminal justice and immigration laws resulted in not only the mass incarceration of the immigrant and BIPOC communities, but also the mass deportation of Central American, South American, and Southeast Asian refugees. Today, Southeast Asian refugees are at least three times more likely to be deported for past convictions than other immigrant communities are. In 2018, at least 16,000 of the 2.7 million Southeast Asians in the United States had received final deportation orders, more than 13,000 of which were based on past criminal records (Transactional Records Access Clearinghouse, "U.S. Deportation Outcomes by Charge, Completed Cases in Immigration Courts", available at http://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php). This means that 80% of the total Southeast Asian deportation orders were linked to old criminal records, compared to 29% of all immigrants with deportation orders. (*Ibid*) Between 2017 and 2018, there was a 279% spike in deportations of Cambodian refugees and a 58% increase in the deportations of Vietnamese refugees (*Ibid*).

This targeting of the Southeast Asian refugee community has continued under the Biden administration. On March 15, 2021, the same week as the horrific Atlanta mass shooting that targeted Asian women and during President Biden's moratorium on deportations, 33 Vietnamese refugee community members were tragically deported. Among those deported were individuals who fought alongside U.S. troops during the Vietnam War.

According to a report released just last week by the International Rescue Committee, the United States is on track to accept the fewest refugees this year of any modern president, including

Trump. The Biden administration has admitted only 2,050 refugees at the halfway point of this fiscal year, according to the humanitarian nonprofit organization, despite President Biden's promises to reverse Trump-era immigration policies, dramatically raise the cap on refugee settlements and respond to what his officials have called "unforeseen and urgent situations," the IRC report noted. (Rescue,org, "More of the same: Biden to admit fewer refugees than any president in U.S. history," (April 11, 2021), available at https://www.rescue.org/report/more-same-biden-admit-fewer-refugees-any-president-us-history?edme=true.)

This bill seeks to further expand and strengthen existing state laws that limit state involvement in immigration enforcement matters -- an appropriate exercise of state sovereignty. It is a fundamental principle of federalism that state governments—as partners with the federal government in the system of "dual sovereignty" created by the U.S. Constitution in order to "reduce the risk of tyranny and abuse" (*Gregory v. Ashcroft* (1991) 501 U.S. 452, 457-58) — may allocate their public resources as they see fit. As a result, states are allowed to prioritize the use of such resources on activities they believe serve the greatest need and further the most pressing interests of the state and its residents. (*Ibid.*) The federal government cannot force states to further its priorities in place of the state's. In fact, case law makes it clear that the federal government can do neither of the following: (1) "commandeer" local officials by making them enforce federal laws (*Printz v. U.S.* (1997) 521 U.S. 898); or (2) force participation in a federal program by threatening to cut off federal funds, unless the funds are directly earmarked for that program. (*NFIB v. Sibelius* (2012) 132 S. Ct. 2566 [federal government cannot cut off *all* Medicaid funding for refusal to participate in Medicaid expansion under the Affordable Care Act].) This bill seeks to limit the use of state resources to assist federal immigration authorities and activities, which is clearly an appropriate exercise of the state's sovereignty.

Although the bill seeks to expand and strengthen the Values Act, it does not do so by amending (or even explicitly repealing) the Values Act. Instead, it creates a new parallel statute that enacts more extensive restrictions on state and local agencies assisting with federal immigration enforcement efforts and provides that these new restrictions apply "notwithstanding any contrary provisions in [the Values Act]." By failing to amend the Values Act, the bill arguably creates confusion about whether and to what extent the Values Act remains in effect. To the extent that this bill were to be enacted and thereby created a conflict with the Values Act, this bill should control given that it would be take precedence because a later-enacted statute enacted controls over an earlier-enacted one. (*Cross v. Superior Court* (2017) 11 Cal.App.5th 305, 322.)

Although this bill clearly would supersede the Values Act in the case of a direct conflict with that law, it is less clear how the two laws would interact in cases where they overlapped, but did not directly conflict. For example, as mentioned in the Assembly Public Safety Committee's analysis of this bill, the Values Act requires the Attorney General to develop model policies for law enforcement agencies to limit their assistance with immigration enforcement to the fullest extent possible (consistent with federal and state law), including at public schools, public libraries, health facilities operated by the state, courthouses, division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters. Under the Values Act, certain agencies were required to adopt those policies, and the other entities were encouraged to adopt them. But none of those policies would be consistent with this bill (and likely would, if fact, conflict with it). Furthermore, local public agencies would not be governed by the policies, while law enforcement agencies in the same jurisdiction would be. If this bill were to become law, would local law enforcement agencies be following different policies than other local government agencies? Should those outdated model

policies remain in effect, be repealed, or updated by the AG? Should the AG be required to develop updated model policies for all government agencies in light of this bill? The bill is silent on those questions.

Potential State Constitutional Concerns Regarding the Reenactment Clause? The fact that this bill does not amend or repeal the Values Act and instead seeks to enact a parallel, more restrictive statute governing non-cooperation by state and local public agencies also *may* raise state constitutional concerns. Article IV of the California Constitution provides that, "A section of a statute may not be amended unless the section is re-enacted as amended." (California Const., Art. IV, Section 9.) Under this provision of the State Constitution, the Legislature is required to reenact a code section whenever passing legislation to amend that particular section. One basic purpose of reenacting a statute that is being amended "is to make sure legislators are not operating in the blind when they amend legislation, and to make sure the public can become apprised of changes in the law." (*The Gillette Company, et. al., v. Franchise Tax Board* (2015) 62 Cal.4th 468,483.)

However, the reenactment rule does not apply to statutes that act to "amend" others only by implication. (*The Gillette Company, et. al., v. Franchise Tax Board, supra,* at 483.) In *Gillette,* the California Supreme Court pointed out that strict enforcement of the reenactment clause is impractical, if nothing else. In that case, it grappled with the question of whether by enacting an alternative tax apportionment formula in Revenue & Tax. Code Section 25128 (a) after the Multistate Tax Compact became binding on the state without "reenacting" the Compact in statute, the Legislature violated the reenactment clause:

> We reasoned long ago . . . To say that every statute which thus affects the operation of another is therefore an amendment of it would introduce into the law an element of uncertainty which no one can estimate. It is impossible for the wisest legislator to know in advance how every statute proposed would affect the operation of existing laws. . . . Although Taxpayers note that the legislative bill *analyses* of the amendment did not refer to the Compact or the election provision expressly, reference to the Compact in section 25128(a) itself is strong evidence that the Legislature acted with the Compact in mind. Even without a reenactment, the legislators and the public have been reasonably notified of the changes in the law. (*Id.* at 483-84 [internal quotations and citations omitted].)

The California Supreme Court reached a similar decision three years later when it held that where a statutory provision is only technically reenacted as part of other changes made by a voter-approved initiative, the Legislature still retains the power to amend the partially reenacted provision through the ordinary legislative process. (*County of San Diego v. Commission on State Mandates* (2018) 6 Cal.5th 196, 214.)

> When technical reenactments are required under article IV, section 9 of the Constitution—yet involve no substantive change in a given statutory provision—the Legislature in most cases retains the power to amend the restated provision through the ordinary legislative process. This conclusion applies *unless* the provision is integral to accomplishing the electorate's goals in enacting the initiative or other indicia support the conclusion that voters reasonably intended to limit the Legislature's ability to amend that part of the statute. (*Ibid.*)

Regardless of whether the bill violates the reenactment clause by altering the Values Act without technically reenacting it, the bill's impact on current law, including the Values Act is less clear than it could and optimally should be.

In order to avoid confusion and provide the Legislature and the public with as much clarity as possible about how this worthy bill affects and interacts with existing law, the author may wish to amend the Values Act, rather than a new statutory scheme that addresses many of the same topics covered by the Values Act, as this bill does in its current form.

Preemption Analysis - When Congress acts under its constitutional powers, it may preempt state laws by one of the following means: (1) an express preemption provision that "withdraw[s] specified powers from the States"; (2) field preemption that "precludes [States] from regulating conduct in a field that Congress . . . has determined must be regulated by its exclusive governance"; or (3) conflict preemption, which occurs when **either** "compliance with both federal and state regulations is a physical impossibility," **or** the "state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*Arizona v. United States* (2012) 567 U.S. 387, 399 [internal quotation marks omitted].)

Express Preemption: The only express provisions in federal law that limit the ability of states to enact laws dealing with immigration appear to be 8 U.S.C. 1373 and 8 U.S.C. 1644. The provisions are virtually identical. The only difference appears to be that Section 1644 applies to states or local governments, and says they cannot be prohibited from sending or receiving immigration status information to ICE; whereas, Section 1373 states that *federal,* state, and local governments cannot be prohibited from sending or receiving of citizenship *or* immigration status information to or from ICE. Given that the 9th Circuit Court of Appeals only discussed Section 1373 in its evaluation of the Values Act, this analysis will focus solely on Section 1373.

Section 1373 prohibits states from enacting laws or policies that prohibit cooperation with and response to federal requests for immigration status information:

> [A] Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service **information regarding the citizenship or immigration status, lawful or unlawful, of any individual**." (8 U.S.C. 1373 (a) [emphasis added].)

While Section 1373 limits state action to expressly prohibit one type of cooperation (i.e. providing information about immigration status) with the federal government, it does not *require* any action on the part of states. When it ruled that the Values Act did not violate Section 1373, the 9th Circuit made two observations about state law. First, "SB 54 . . . expressly *permits* the sharing of [information regarding a person's citizenship or immigration status], and so does not appear to conflict with [Section] 1373." (*U.S. v. California, supra,* 921 F.3d at 890 [emphasis in original].) Second, the Values Act does not expressly prohibit or in any way restrict law enforcement authorities from sharing the particular type of information described by Section 1373. The 9th Circuit did not specify how important either aspect of state law was in its ultimate decision, but only mentioned the first aspect of state law (that the Values Act *permits* the sharing of information) in passing, and discussed the second aspect at length. Therefore, it is reasonable to assume that the nature of the information at issue in the Values Act was by far the most important reason for the 9th Circuit's holding that the Values Act did not run afoul of Section 1373.

The 9th Circuit pointed out in *U.S. v. California* that the information which the Values Act prohibited from being shared --"information regarding a person's release date," and "personal information . . . about an individual, including, but not limited to, the individual's home address

or work address"—was *not* the same information addressed by Section 1373 ("information regarding the citizenship or immigration status, lawful or unlawful, of any individual"). (*U.S. v. California, supra,* 921 F.3d. at 891.) The information governed by Section 1373, on the other hand, is "naturally understood as a reference to a person's legal classification under federal law," and not a reference to more general information about an individual. (*Ibid*.) Therefore, the court narrowly construed the meaning of Section 1373 in relation to a state law restricting the disclosure of personal information.

The information that this bill seeks to prohibit public agencies from sharing with immigration officials appears to be the same information that the Values Act prohibits law enforcement agencies from sharing: information about a detainee's release date and personal information about the detainee. Given that the Value Act's restrictions on disclosure of this information were upheld, as explained above, in *U.S. v. California, supra*, it would appear likely that this bill's restrictions on information sharing would also survive an express preemption challenge because it does not conflict with Section 1373.

Furthermore, even if the bill *did* violate Section 1373 by prohibiting public agencies from providing ICE with "information regarding the citizenship or immigration status, lawful or unlawful, of any individual," it could still be upheld against a preemption challenge. Several federal district courts have ruled that Section 1373 itself is unlawful. As the 9th Circuit observed in footnote 19 of *U.S. v. California*, while citing several district court decisions, "Because we agree with the district court's conclusion, we need not address whether [Section] 1373 is itself unlawful, though we note that various district courts have questioned its constitutionality." (*United States v. California, supra, at* 893, fn. 19.) One of the district court cases mentioned in footnote 19, for example, found that Section 1373 violates the anti-commandeering principles:

> Section 1373 contravenes the idea that liberty is best served by the Constitution's intended division of "authority between federal and state governments for the protection of individuals." [Citations.] DOJ argues that Section 1373 requires states and local governments to allow the disclosure of an immigrant's address, location information, release date, date of birth, familial status, contact information, and any other information that would help federal immigration officials perform their duties. [Citations.] To comply with that interpretation, California and San Francisco would need to submit control of their own officials' communications to the federal government and forego passing laws contrary to Section 1373. They would also need to allocate their limited law enforcement resources to exchange information with the federal government whenever requested instead of to the essential services (like enforcing generally applicable criminal laws) they believe would most benefit their respective communities. (*City & Cty. of San Francisco v. Sessions* (N.D.Cal. 2018) 349 F. Supp. 3d 924, 950-951 [upheld in part, overruled in part by (*City & Cty. of San Francisco v. Sessions* (N.D.Cal. 2018) 349 F. Supp. 3d 924].)

Field Preemption: The Supreme Court and other federal courts have held that state laws seeking to regulate immigration on the state level--as Arizona did when it passed laws that (1) created a state-law crime for being unlawfully present in the United States; (2) created a state-law crime for working or seeking work while not authorized to do so; and (3) authorized warrantless arrests of aliens believed to be removable from the United States--are preempted by federal immigration law and its objectives. (See *Arizona v. United States, supra*, 567 U.S. at 416.)

This bill, unlike the Arizona law at issue in *Arizona v. United States*, clearly seeks to leave federal immigration enforcement to federal officials. Far from attempting to usurp federal duties related to immigration, the bill seeks to reinforce the federal framework that provides states with the power to determine whether or not to use their resources to assist in federal immigration efforts, including whether to have public employees function as immigration officers and/or assist immigration officers. Federal law *authorizes* the Secretary of Homeland Security to enter into agreements that delegate immigration powers to local police. (8 U.S.C. Section 1357 (g).) But nothing *requires* states to enter into such agreements with the federal government.

Of particular relevance to this bill, the 9th Circuit held in *U.S. v. California, supra,* that the 10th Amendment to the U.S. Constitution protects California's right to control its own state and local resources, including state and local law enforcement resources. Specifically, the 9th Circuit observed that the federal government cannot force California to help its immigration enforcement efforts:

> SB 54 may well frustrate the federal government's immigration enforcement efforts. However, whatever the wisdom of the underlying policy adopted by California, that frustration is permissible, because California has the right, pursuant to the anti commandeering rule, to refrain from assisting with federal efforts…. In this context, the federal government...could not require California's cooperation without running afoul of the Tenth Amendment. (*U.S. v. California, supra,* 921 F.3d at 890-91.)

Because states need not participate in federal immigration enforcement, and because of the explicit non-preemptive text and structure of Section 1357 (g), above, this bill merely expresses the state's authority to determine that its public resources should be used for purposes *other than* assisting with immigration enforcement. By merely exercising this priority, the bill clearly does not usurp federal authority by "regulating conduct in a field that Congress . . . has determined must be regulated by its exclusive governance" in a manner that would make it vulnerable to a field preemption challenge.

Conflict Preemption: As described above, the bill has two main prohibitions (one of which has two subparts). One, which happens to be the latter, reads as follows:

> A state or local agency or court shall not use immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.

All of the programs and purposes described by this language -- *probation . . . diversion, rehabilitation, mental health program, or placement in a credit-earning program or class* – are state and local programs and decisions. Decisions regarding such programs and placements, like decisions *"to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision"* are purely state and local matters. California is allowed to prioritize the use of its resources on activities which serve the greatest need and further the most pressing interests of the state and its residents. (See *Gregory v. Ashcroft, supra,* 501 U.S. at 457-58.) Therefore, this provision does not raise any conflict preemption concerns.

The bill's other main prohibition, however, could be more problematic, depending on how it is interpreted. It provides as follows:

> A state or local agency shall not arrest or assist with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose in any manner, including but not limited to, by notifying another agency or subcontractor thereof regarding the release date and time of an individual, releasing or transferring an individual into the custody of another agency or subcontractor thereof, or disclosing personal information . . . about an individual, including, but not limited to, an individual's date of birth, work address, home address, or parole or probation check in date and time to another agency or subcontractor thereof. This subdivision shall apply notwithstanding any contrary provisions in Section 7282.5, subparagraphs (C) and (D) of paragraph (1) of, or paragraph (4) of, subdivision (a) of Section 7284.6, or subdivision (b) of 7284.6.

Although this bill prohibits the *same information* from being shared with immigration authorities that the Values Act prohibited from being shared with them (and the 9th Circuit ruled could be withheld from immigration authorities under the Values Act), it differs from the Values Act in several significant ways. First, it provides that, "This subdivision shall apply notwithstanding any contrary provisions" in the Values Act. This apparently means that the exceptions listed in the Values Act that allow law enforcement agencies to provide information to immigration authorities in specified circumstances (i.e. when law enforcement officials are cooperating with federal immigration authorities in the apprehension of individuals who have been convicted of serious and violent felonies, sex offenses, child molestation, and child abuse; when it is available to the public, and when it is "in response to a notification request from immigration authorities") those exceptions would not apply under the bill.

These particular limits on information sharing may not result in conflict preemption, though, because they do not necessarily make it impossible for public officials to comply with both federal law, or "stand[] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*Arizona v. United States, supra*, 567 U.S. at 399.) While the bill's information sharing provision is more restrictive that the Values Act, the bill does not specifically prohibit the disclosure of information about a person's immigration status. Given that the meaning of Section 1373 has been narrowly construed, the bill's greater restriction on the release of information likely would not violate Section 1373 or result in conflict preemption.

The second significant reason why this bill is more restrictive than the Values Act is that, unlike the Values Act, it does not specifically and expressly *permit* the sharing of information regarding a person's citizenship or immigration status, which was at least mentioned by the 9th Circuit when it upheld the Values Act. (See *U.S. v. California, supra*, 921 F.3d at 890.) Therefore, it is conceivable (though unlikely) that the 9th Circuit could reach a different conclusion about this bill's limitations on information sharing than it made regarding the Values Act because of the bill's law of express permission.

Third, and most significant, is the fact that the bill's language restricting the ability of state and local agencies to **assist** with immigration enforcement efforts is extremely broad. The bill provides that a public agency cannot "***assist*** *with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for* ***an immigration enforcement purpose in any manner.***" This logically could be interpreted to prohibit an agency from sending to ICE, or receiving from ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual in direct violation of Section 1373. Alternatively, this provision could be interpreted to "stand[] as an obstacle to the accomplishment and execution of the full

purposes and objectives of Congress." (*Arizona v. United States, supra,* 567 U.S. at 399.). If so, this provision could raise a conflict preemption concern about the bill.

Author's amendments. In order to address the possible, but remote, concern that some aspects of the bill could raise conflict preemption concerns, the author proposes to make two clarifying amendments. First, the author intends to amend the bill to add the following additional intent language, clarifying that it is the intent of the bill to be consistent with federal law:

> (f) No federal statutes affirmatively require local or state governments to assist ICE with immigration enforcement. While one federal statute specifically addresses this issue, 8 U.S.C. § 1373, it only passively restricts local and state governments from prohibiting the sharing of only information related to immigration status or citizenship. Further, 8 U.S.C. § 1373 has been found by several federal courts to be unconstitutional. The U.S. Supreme Court ruled that the Tenth Amendment prohibits the federal government from affirmatively compelling a state to enact laws and policies, and also prevents the federal government from prohibiting a state or local jurisdiction from enacting new laws or policies. *See Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1477 (2018). Applying this rule from the U.S. Supreme Court, a number of federal district courts have held that 8 U.S.C. § 1373 is unconstitutional under the Tenth Amendment of the U.S. Constitution. The 9th Circuit Court of Appeals acknowledged this fact when it upheld the Values Act against a preemption challenge in *US v. California* (9th Cir. 2019) 921 F.3d 865, cert. denied, *US v. California (2020)* 141 S.Ct. 124. It is the intent of the VISION Act to be consistent with federal law.

Second, the author proposes to add a severability clause to the bill so that in the event that any portion of the bill should be invalidated, other portions of the bill would remain in effect.

This bill imposes civil liability on public agencies and employees for violating its provisions. The general rule in California is that a government entity (or an employee acting within scope of employment) is immune from liability *unless* there is a statute providing otherwise. (See Government Code Section 815.) Under the Government Claims Act, "Except as provided by statute, . . [a] public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." (Section 815 (a).) Therefore, sovereign immunity is the rule and governmental liability is limited to exceptions specifically set forth by statute. (*Zuniga v. Housing Auth.* (1995) 41 Cal. App. 4th 82.) The Government Claims Act itself sets out exceptions to the general rule of immunity. For example, Section 835 provides that a government entity is liable for injury caused by the dangerous condition on government property. Section 862, which is also within the Government Claims Act, makes government entities liable for injuries caused by pesticide use to the same extent as a private person. Also, as a general rule, a public entity is liable for an injury caused by an act or omission of its employees who are acting within the scope of their employment, if the act would have given rise to a cause of action against that employee. (Section 815.2.)

This bill would create such a statute by providing for governmental liability. Specifically, the bill provides that in addition to any other sanctions, penalties, or remedies provided by law, a person may bring an action for "equitable or declaratory relief" in a court of competent jurisdiction against a state or local agency or state or local official that violates the bill's provision. It further provides that a state or local agency or official that violates this section is liable for actual and general damages, and reasonable attorney's fees, which normally would be paid by each party and would not be subject to recovery by the prevailing party.

As a practical matter, this provision would allow a person who is harmed by a public official violating the bill's prohibitions (by, for example, being taken into federal custody as a result of their release date being provided to federal immigration officials) to bring an action against the public employee (and/or their employer) who provided the information. The plaintiff could recover damages (such as lost income and medical expenses, for example), as well as injunctive relief (i.e. a court order for an agency to comply with the law) and equitable relief (any relief where normal remedies, such as damages, are inadequate). In addition to damages, the plaintiff would also be entitled to recover their "reasonable attorney's fees" for bringing the action against the employee and/or agency.

ARGUMENTS IN SUPPORT: Co-sponsor Asian Americans Advancing Justice California writes that they support the bill because it is consistent with California's recent rethinking of tough on crime public safety policies because those policies hurt communities and did not make them any safer:

> California's punitive carceral system unjustly and disproportionately harms Black, Latinx, Indigenous, and Asian and Pacific Islander American communities. In recent years . . . the legislature and California voters have demonstrated a strong commitment to reforming our criminal justice system and ending mass incarceration. However, the state's role in funneling California residents to the custody of ICE undercuts our progress towards a more equitable society, and unfairly targets immigrants and refugees.
>
> Indeed, despite these reforms, when California's jails and prisons voluntarily and unnecessarily transfer immigrant and refugee community members eligible for release from state or local custody to ICE for immigration detention and deportation purposes, they subject these community members to double punishment and perpetual trauma. . . . The VISION Act would ensure California's tax dollars will not be used to subject immigrants to double punishment, separate immigrant families, and violate constitutional rights.

Another co-sponsor, Asian Prisoner Support Committee, emphasized the moral imperative for California to stop all participation and assistance in federal immigration enforcement activities:

> As the state with the largest immigrant community in the country, California has an ethical and moral obligation to step up our leadership and take action to protect the rights of all refugees and immigrants who call California home, including those eligible for release from our local jails and state prisons. California is home to an estimated 11 million immigrants—about a quarter of the immigrant population nationwide. Almost one in three Californians is an immigrant; and one in two children in California has at least one immigrant parent. . . . If we fail to end the cruel practice of ICE transfers, California will continue to actively participate in the separation of immigrant and refugee families, and inflict irreparable harm to those who came here fleeing war and genocide or to simply build a better life for themselves and their children.

ARGUMENTS IN OPPOSITION: The California Police Chiefs Association writes that it opposes the bill because it will prohibit law enforcement agencies from working on task forces with "our federal law enforcement partners."

> These multi-jurisdictional task forces – many formed in the wake of the 9/11 terrorist attacks – are incredibly important in undermining major international criminal cartels on ongoing terrorist threats. Oftentimes, although not solely done for immigration purposes, civil

> immigration violations are used to help bring the major criminal operations to justice. Existing law, which we helped negotiate and was agreed to by all sides, allows for these operations so long as 1) the primary purpose of the task force is not immigration enforcement, 2) the investigative duties are primarily related to crimes unrelated to immigration enforcement, and 3) participation in the task force does not violate state or local laws. . . . SB 937 undercuts these very deliberately crafted statutes and does so to the detriment of public safety.

Similarly, Peace Officers Research Association of California (PORAC) writes that it "cannot support a State bill that forces our States public safety officers to stand by while our federal counterparts are injured or killed in the performance of their duties." PORAC goes on to say that, "if the federal government requires our involvement, such as temporarily housing an undocumented arrestee, then it is our responsibility to adhere to the needs of the federal government."

The California State Sheriffs Association, on the other hand, takes particular issue with the bill's elimination of "the requirement that an offender's place of birth be included in basic information stored in state or local criminal offender record information systems [because it] will make that information less accurate and less useful to the stakeholders that rely upon that information, irrespective of whether the person is subject to any immigration enforcement action."

Related Prior Legislation: AB 2596 (Bonta), of the 2019-2020 Legislative Session, would have eliminated the existing ability for law enforcement agencies to cooperate with federal immigration authorities by giving them notification of release for inmates or facilitating inmate transfers. AB 2596 was never heard in the Assembly Public Safety Committee.

AB 2948 (Allen), of the 2017-2018 Legislative Session, would have repealed the California Values Act SB 54, which defines the circumstances under which law enforcement agencies may assist in the enforcement of federal immigration laws and participate in joint law enforcement task forces. AB 2948 failed passage in the Assembly Public Safety Committee.

AB 2931 (Patterson), of the 2017-2018 Legislative Session, would have expanded the list of qualifying criminal convictions which permit law enforcement to cooperate with federal immigration authorities. AB 2931 failed passage in the Assembly Public Safety Committee.

AB 298 (Gallagher), of the 2017-2018 Legislative Session, would have repealed the TRUST Act and required law enforcement to cooperate with federal immigration by detaining an individual convicted of a felony for up to 48 hours on an immigration hold, as specified, after the person became eligible for release from custody. AB 298 failed passage in the Assembly Public Safety Committee.

AB 1252 (Allen), of the 2017-2018 Legislative Session, would have repealed the TRUST Act and prohibited state grants to county and local "sanctuary jurisdictions." AB 1252 failed passage in the Assembly Public Safety Committee.

SB 54 (De Leon), Chapter 495, Statutes of 2017, limited the involvement of state and local law enforcement agencies in federal immigration enforcement.

AB 2792 (Bonta), Chapter 768, Statutes of 2016, requires local law enforcement agencies to provide copies of specified documentation received from ICE to the individual in custody and to notify the individual regarding the intent of the agency to comply with ICE requests.

REGISTERED SUPPORT / OPPOSITION:

Support

67 Sueños
Aapis for Civic Empowerment Education Fund
Alianza
Alliance of Californians for Community Empowerment Action
Alliance San Diego
Anti-recidivism Coalition
Asian Americans Advancing Justice - California
Asian Prisoner Support Committee
Asian Solidarity Collective
Bend the Arc California
Buen Vecino
Buena Vista United Methodist Church Immigration Committee
California Attorneys for Criminal Justice
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Immigrant Policy Center
California United for A Responsible Budget
Californiahealth+ Advocates
Californians for Safety and Justice
Center for Empowering Refugees and Immigrants
Central Coast Alliance United for A Sustainable Economy
Centro Legal De LA Raza
Church World Service
City of Oakland, Council President Nikki Fortunato Bas / District 2
Clergy and Laity United for Economic Justice
Coalition for Humane Immigrant Rights (CHIRLA)
Communities United for Restorative Youth Justice (CURYJ)
Community Justice Exchange
Community Legal Services in East Palo Alto
Community United Against Violence
Contra Costa Immigrant Rights Alliance
County of San Diego
Courage California
Critical Resistance
Desert Support for Asylum Seekers
East Yard Communities for Environmental Justice
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Equal Rights Advocates
Essie Justice Group
Eviction Defense Collaborative Union

Filipino Migrant Center
Freedom for Immigrants
Friends Committee on Legislation of California
Hope for All: Helping Others Prosper Economically
Human Impact Partners
Human Rights Watch
Ice Out of Marin
Immigrant Defenders Law Center
Immigrant Defense Advocates
Immigrant Legal Resource Center
Indivisible Sausalito
Initiate Justice
Inland Coalition for Immigrant Justice
Interfaith Movement for Human Integrity
Irvine United Congregational Church -- Advocates for Peace and Justice
Kehilla Community Synagogue
Khmer Girls in Action
Lakeshore Avenue Baptist Church
Legal Services for Prisoners With Children
Long Beach Immigrant Rights Coalition
Long Beach Southeast Asian Anti-deportation Collective
Mixteco Indigena Community Organizing Project
Naral Pro-choice California
National Day Laborer Organizing Network
Network in Solidarity With the People of Guatemala
New Bridges Presbyterian Church
Nikkei Progressives
No New Sf Jail Coalition
Norcal Resist
Oakland Privacy
Oc Emergency Response Coalition
Or Shalom Jewish Community
Orange County Equality Coalition
Orange County Rapid Response Network
Pangea Legal Services
Pico California
Pillars of The Community
Pride in Truth
Re:store Justice
San Diego Immigrant Rights Consortium
San Francisco District Attorney's Office
San Francisco Peninsula People Power
San Francisco Public Defender
San Francisco Youth Commission
Santa Barbara County Action Network
Secure Justice
Showing Up for Racial Justice (SURJ) Bay Area
Showing Up for Racial Justice (SURJ) San Diego
Showing Up for Racial Justice North County

Southeast Asia Resource Action Center
Surj Contra Costa County
Surj San Mateo
Survived and Punished
Team Justice
The Orange County Justice Fund
The Transformative In-prison Workgroup
Think Dignity
Transitions Clinic Network
UC Berkeley's Underground Scholars Initiative
Uncommon Law
Underground Scholars Initiative, University of California Davis
Unitarian Universalist Fellowship of Redwood City, Social Action Committee
Ventura County Clergy and Laity United for Economic Justice
Viet Rainbow of Orange County
Vietrise
We the People - San Diego
Woman INC
Women for American Values and Ethics Action Fund
Women For: Orange County
Yalla Indivisible
Young Women's Freedom Center
Youth Justice Coalition

Opposition

California Police Chiefs Association
California State Sheriffs' Association
Peace Officers Research Association of California

Analysis Prepared by: Alison Merrilees / JUD. / (916) 319-2334