

Date of Hearing: May 5, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 937 (Carrillo) – As Amended April 21, 2021

Policy Committee:	Public Safety	Vote:	5 - 2
	Judiciary		7 - 2

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill prohibits state and local law enforcement agencies from cooperating with federal immigration authorities, or assisting in the detention, deportation or interrogation, of an individual by immigration enforcement. This bill also prohibits using immigration status as a factor to deny probation or participation in any diversion, rehabilitation or mental health program or placement in a credit-earning program or class; to determine custodial classification level; to deny mandatory supervision; or to lengthen the portion of supervision served in custody.

FISCAL EFFECT:

- 1) Costs (General Fund (GF)) to the California Department of Corrections and Rehabilitation (CDCR) in the tens of millions of dollars annually for additional parole and probation staff in its Division of Adult Parole Operations to monitor approximately 5,300 new parolees and probationers that would otherwise have been transferred to the custody of the Immigration and Customs Enforcement (ICE). CDCR estimates costs of approximately \$46 million dollars for almost 200 new positions and additional resources including electronic monitoring devices, sex offender treatment and polygraphs, medication for mental health treatment, vehicles and training. Additional costs to CDCR in excess of \$150,000 to update IT systems, regulations, policies and procedures, and training on the requirements of this bill.
- 2) Cost pressures (Trial Court Trust Fund) in the mid-hundreds of thousands of dollars annually to the courts in additional workload. This bill grants any person the authority to file for declaratory or injunctive relief for actual damages and attorney's fees against any public agency or public official that violates the prohibitions in this bill. The estimated workload cost of one hour of court time is \$956. If 20 cases are filed statewide resulting 20 hours of court time for each case, costs would be approximately \$382,400. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. This is particularly true given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a serious backlog that must be resolved. The Governor's 2021-22 budget proposes \$72.2 million dollars in ongoing GF revenue for trial courts to continue addressing the backlog of cases in order to provide timely access to justice.

COMMENTS:

- 1) **Existing Law.** In 2017, the California Legislature passed the SB 54 (De Leon), Chapter 495, Statutes of 2017 (Values Act), which prohibits law enforcement from cooperating with ICE. (See *U.S. v. California* (9th Cir. 2019) 921 F.3d 865.) The prohibitions in the Values Act expressly excluded CDCR. Currently, CDCR identifies inmates at admission as citizens or as non-citizens. CDCR notifies ICE on a regular basis when inmates designated non-citizens are released from custody. In some instances, ICE notifies CDCR it plans to take custody of an inmate upon the inmate's release and arrives to do so at the time the inmate is actually released from prison. In other instances, ICE decides not to take custody of an inmate and the inmate is released on parole. This bill prohibits CDCR or any other law enforcement agency from cooperating with ICE. Presumably, if this bill is enacted, CDCR will no longer be able to inform ICE of a non-citizen's release from prison and that person will be placed on parole. This bill also allows a person to file a civil action against any public entity or official if the agency or official cooperates or assists federal immigration authorities in any way. This may create a conflict with federal law if federal immigration authorities direct a state or local agency to provide assistance or cooperation.

CDCR estimates it will see a 10% increase in the parole population if CDCR is prohibited from providing any information to ICE about a prisoner's release date. CDCR is already handling an influx of parolees, given the increase in early releases because of COVID. CDCR estimates it will need new parole officers, supervisors, and equipment to manage the increase.

- 2) **Argument in Support.** According to Asian Prisoner Support Committee:

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.

- 3) **Argument in Opposition.** According to the California Police Chiefs Association:

This [bill] is concerning because [the] existing statute narrowly carves out work many of our local agencies engage on as part of joint-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.

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