

ASSEMBLY THIRD READING

AB 937 (Carrillo, et al.)

As Amended April 21, 2021

Majority vote

SUMMARY

Eliminates the existing ability under the Values Act for law enforcement agencies to cooperate with federal immigration authorities by giving them notification of release for inmates or facilitating inmate transfers. Prohibits all state and local agencies from assisting, in any manner, the detention, deportation, interrogation, of an individual by immigration enforcement.

Major Provisions

- 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.
- 2) States that the prohibition described above shall apply notwithstanding any contrary provisions in the California Values Act, as specified, which allowed law enforcement to cooperate with immigration authorities in limited circumstances.
- 3) 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.
- 4) Specifies that a state or local agency or official that violates the provisions of this bill is liable for actual and general damages and reasonable attorney's fees.

COMMENTS**According to the Author**

"AB 937 helps California realize its promise of protecting immigrant rights and reforming our criminal justice system. Under current law many individuals that have completed their sentence or have been deemed eligible for release from a California jail or prison can face a second punishment in the immigration detention system, solely because of where they were born. AB 937 will stop this arbitrary second punishment where one has no right to legal representation, pretrial release, or a hearing from a jury of their peers. 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."

Arguments in Support

According to the *Initiate Justice*, "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. Community members can be incarcerated by ICE, often for prolonged periods and with no right to bail, and deported – permanently banishing them from the country, from their families, their homes, their livelihoods.

"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. 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

According to the *Peace Officers Research Association of California*, "AB 937 would prohibit any state or local agency from arresting or assisting with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purposes. The bill would additionally prohibit state or local agencies or courts 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.

"Congress defined our nation's immigration laws in the Immigration and Nationality Act (INA), which contains both criminal and civil enforcement measures. PORAC 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. In addition, 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. This proposed legislation puts local law enforcement in a no-win situation, having to choose between state and federal laws."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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.

VOTES

ASM PUBLIC SAFETY: 5-2-1

YES: Jones-Sawyer, Quirk, Santiago, Wicks, Lee

NO: Lackey, Seyarto

ABS, ABST OR NV: Bauer-Kahan

ASM JUDICIARY: 7-2-2

YES: Stone, Chau, Chiu, Lorena Gonzalez, Holden, Kalra, Reyes

NO: Davies, Smith

ABS, ABST OR NV: Kiley, Maienschein

ASM APPROPRIATIONS: 11-4-1

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

NO: Bigelow, Megan Dahle, Davies, Fong

ABS, ABST OR NV: Gabriel

UPDATED

VERSION: April 21, 2021

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