
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 1306 (Wendy Carrillo) - State government: immigration enforcement

Version: April 13, 2023

Urgency: No

Hearing Date: August 14, 2023

Policy Vote: PUB. S. 4 - 0

Mandate: No

Consultant: Matthew Fleming

Bill Summary: AB 1306 would prohibit the California Department of Corrections and Rehabilitation (CDCR) from cooperating with the U.S. Department of Homeland Security (DHS), as specified, and repeals provisions of law requiring CDCR to cooperate with the DHS.

Fiscal Impact: Ongoing costs to CDCR, likely in the millions of dollars annually, in order to supervise parolees that otherwise would be in federal custody and possibly deported (General Fund). See Staff Comments for additional detail.

Background: The Values Act, which became effective on January 1, 2018, limits the involvement of state and local law enforcement agencies in federal immigration enforcement. It prohibits law enforcement agencies (including school police and security departments) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes. It also places limitations on the ways in which law enforcement agencies can collaborate with federal task forces that involve elements of immigration enforcement. The Values Act was an expansion of prior state law, the TRUST Act which prohibited law enforcement from honoring federal immigration holds unless the detainee had a criminal history involving a serious or violent felony. CDCR is not considered a law enforcement agency under the Values Act or under the TRUST. In fact, there are provisions in the Penal Code which specifically require CDCR to cooperate with Federal immigration enforcement authorities.

Proposed Law:

- Prohibits CDCR from cooperating with DHS in the following manner when specified persons are being released:
 - Detaining a person on the basis of an immigration hold request;
 - Providing an immigration authority with release date information;
 - Responding to a notification request; and,
 - Transferring a person to an immigration authority, or facilitating or assisting with a transfer.
- Provides that these prohibitions apply to individuals being released pursuant to a youth offender parole hearing, elderly parole, medical parole, compassionate release recall and resentencing, vacatur of a felony murder conviction and resentencing, vacatur of a conviction because the person was a victim of human

trafficking or intimate partner violence, resentencing based on childhood trauma, being a youthful offender or a victim of human trafficking or intimate partner violence, resentencing pursuant to the California Racial Justice Act, or a grant of clemency.

- Repeals provisions of law requiring CDCR to cooperate with DHS.

Related Legislation:

- AB 937 (Carrillo), of the 2021-2022 Legislative Session, would have, among other things, repealed statutory provisions directing CDCR to implement and maintain procedures to identify, within 90 days of assuming custody, incarcerated persons who are undocumented felons subject to deportation and refer them to ICE. AB 937 was refused passage in the Senate.
- 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 this committee due to Covid 19.
- AB 2948 (Allen), of the 2017-2018 Legislative Session, would have repealed the California Values Act. AB 2948 failed passage in this 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 this 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 this 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 this 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.
- AB 4 (Ammiano), Chapter 570, Statutes of 2013, prohibits a law enforcement official from detaining an individual on the basis of an ICE hold after that individual becomes eligible for release from custody, unless, at the time that the individual becomes eligible for release from custody, certain conditions are met, including, among other things, that the individual has been convicted of specified crimes.

Staff Comments: According to proponents of AB 1306, there are approximately 1,412 releases from CDCR custody that result from the reforms specifically identified in the bill. Staff notes that two of those reforms – the Racial Justice Act and the Justice for Survivors reform (AB 124 (Kamlager)) – only fully went into effect in 2022. Due to their recent enactment, it is difficult to assess how many people will be released from CDCR custody as a result of those measures. The proponents of AB 1306, for their part, anticipate approximately four releases annually, which are incorporated into the total number of 1412.

According to the Public Policy Institute of California (PPIC), approximately 13.5% of California's prison population was foreign born as of 2019. An additional 5.1% were of an unknown national origin. It cannot be known with certainty how many people released from CDCR custody as a result of the reforms enumerated in this bill would be subject to immigration proceedings and eventually deported. Numerous factors, such as dual-citizenship, naturalization, and whether a person is actually deported or granted some form of relief during immigration proceedings can affect whether a non-citizen will be placed on parole following release, put into Federal custody, or deported from the United States. For illustrative purposes, if 5% of the releasees would have to be supervised by CDCR under AB 1306 rather than going into Federal custody/immigration proceedings, that would be 70 additional parolees. 10% would be 141, and 18.6% would be 263.

The proposed per capita cost for a parolee in the 2023-24 budget is \$15,579, which reflects a General Fund total, including Prop 98, Federal Funds, Reimbursements and Emergency Relief Fund. Assuming AB 1306 results in an additional 70 parolees that otherwise would not need to be supervised by CDCR, there would be annual General Fund costs of \$1.1 million. 141 = \$2.2 million, 282 = \$4.1 million.

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