
THIRD READING

Bill No: AB 1306
Author: Wendy Carrillo (D), et al.
Amended: 4/13/23 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/27/23
AYES: Wahab, Bradford, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 54-18, 5/30/23 - See last page for vote

SUBJECT: State government: immigration enforcement

SOURCE: Alliance for Boys and Men of Color
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice-Southern California
Asian Prisoner Support Committee
Buen Vecino
California Coalition for Women Prisoners
California Immigrant Policy Center
Communities United for Restorative Youth Justice
Freedom for Immigrants
Harbor Institute for Immigrant and Economic Justice
ICE Out of Marin; Indivisible Sausalito
Interfaith Movement for Human Integrity
National Day Laborer Organizing Network
Orange County Rapid Response Network
San Diego Immigrant Rights Consortium
San Francisco Public Defender
Siren: Services Immigrant Rights and Education Network
Tsuru for Solidarity

VietRISE

DIGEST: This bill prohibits 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 DHS.

ANALYSIS:

Existing federal law:

- 1) Provides that any authorized immigration officer may at any time issue Immigration Detainer-Notice of Action, to any other federal, state, or local law enforcement agency. Provides that a detainer serves to advise another law enforcement agency that DHS seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. Provides that the detainer is a request that such 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 CFR § 287.7(a).)
- 2) Provides 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 CFR § 287.7(d).)
- 3) Authorizes the Secretary of DHS to enter into agreements that delegate immigration powers to local police. Provides that the negotiated agreements between federal Immigration and Customs Enforcement (ICE) and the local police are documented in memorandum of agreements (MOAs). (8 U.S.C. § 1357(g).)
- 4) Provides 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) Provides 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) Requires CDCR to refer to the name and location of any incarcerated person who may be an undocumented immigrant and who may be subject to deportation to DHS for a determination of whether the person is undocumented and subject to deportation. (Pen. Code, § 5025, subd. (a).)
- 2) Requires CDCR to make case files available to DHS for purposes of investigation. (Pen. Code, § 5025, subd. (a).)
- 3) Requires CDCR to cooperate with DHS by providing the use of prison facilities, transportation, and general support, as needed, for the purpose of conducting and expediting deportation hearings and subsequent placement of deportation holds on undocumented immigrants who are incarcerated in state prison. (Pen. Code, § 5026, subd. (a).)
- 4) Prohibits law enforcement agencies (LEAs) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes, including:
 - a) Inquiring into an individual's immigration status;
 - b) Detaining a person based on a hold request from ICE;
 - c) 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;
 - d) Providing personal information, as specified, including, but not limited to, name, social security number, home or work addresses, unless that information is available to the public;
 - e) Arresting a person based on a civil immigration warrant;
 - f) Participating in border patrol activities, including warrantless searches;
 - g) Performing the functions of an immigration agent whether through agreements known as 287(g) agreements, or any program that deputizes police as immigration agents;
 - h) Using ICE agents as interpreters;

- i) Transferring an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or except as otherwise specified;
 - j) Providing office space exclusively for immigration authorities in a city or county law enforcement facility; and,
 - k) Entering into a contract with the federal government to house or detain adult or minor non-citizens in a locked detention facility for purposes of immigration custody.
(Gov. Code, § 7284.6, subd. (a).)
- 5) Defines “California law enforcement agency” as a state or local law enforcement agency, including school police or security departments. Specifies that California law enforcement agency does not include CDCR. (Gov. Code, § 7284.4, subd. (a).)
- 6) Describes the circumstances under which a LEA has discretion to respond to transfer and notification requests from immigration authorities. Provides that LEAs cannot honor transfer and notification requests unless one of the following apply:
- a) The individual has been convicted of a serious or violent felony, as specified;
 - b) The individual has been convicted of any felony which is punishable by imprisonment in state prison;
 - c) The individual has been convicted within the last five years of a misdemeanor for a crime that is punishable either as a felony or misdemeanor (a wobbler);
 - d) The individual has been convicted within the past 15 years for any one of a list of specified felonies;
 - e) The individual is a current registrant on the California Sex and Arson Registry;
 - f) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as specified in the federal Immigration and Nationality Act;
 - g) The individual is identified by ICE as the subject of an outstanding federal felony arrest warrant for any federal crime; or,
 - h) The individual is arrested on a charge involving a serious or violent felony, as specified, or a felony that is punishable by imprisonment in state prison, and a magistrate makes a finding of probable cause as to that charge.
(Gov. Code, § 7282.5, subds. (a) & (b).)

- 7) Requires local law enforcement agencies, to provide an individual in custody a written consent form as well as copies of specified documentation prior to an interview between ICE and the individual, and to notify the individual regarding the intent of the agency to comply with ICE requests. (Gov. Code, § 7283.1.)
- 8) Defines “hold request” as an ICE request that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time they would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to DHS Form I-247D. (Gov. Code, §§ 7283, subd. (b) & 7284.4, subd. (e).)
- 9) Defines “notification request” as an ICE request that a local law enforcement agency inform ICE of the release date and time of an individual in its custody in advance of informing the public and includes, but is not limited to, DHS Form I-247N. (Gov. Code, §§ 7283, subd. (f) & 7284.4, subd. (e).)
- 10) Defines “transfer request” as an ICE request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X. (Gov. Code, §§ 7283, subd. (g) & 7284.4, subd. (e).)

This bill:

- 1) Prohibits CDCR from cooperating with DHS in the following manner when specified persons are being released:
 - a) Detaining a person on the basis of an immigration hold request;
 - b) Providing an immigration authority with release date information;
 - c) Responding to a notification request; and,
 - d) Transferring a person to an immigration authority, or facilitating or assisting with a transfer.
- 2) 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.

- 3) Repeals provisions of law requiring CDCR to cooperate with DHS.
- 4) Contains uncodified legislative findings and declarations.

Background

The Values Act, which went into effect 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. The Values Act contains some exceptions that allows law enforcement agencies to cooperate with immigration authorities. Under the Values Act, law enforcement is allowed to engage with immigration authorities to do the following:

- Provide a person's release date or personal information, as specified, if such information is available to the public;
- Respond to notification and transfer requests when the individual had been convicted of specified crimes which reflected a higher public safety danger and are on the serious end of the criminal spectrum such as serious and violent felonies and offenses requiring an individual to register as a sex offender;
- Make inquiries into information necessary to certify an individual for a visa for a victim of domestic violence and human trafficking;
- Respond to a request from immigration authorities for information about a person's criminal history;
- Participate with a joint law enforcement task force, as long as the primary purpose of the task force is not immigration enforcement; or,
- Give immigration authorities access to interview an individual in agency custody as long as the interview access complied with the requirements of the TRUTH Act.

CDCR is not considered a California law enforcement agency under the Values Act or under the TRUST Act. In fact, current law specifically requires CDCR to cooperate with ICE. (Pen. Code, §§ 5025 & 5026.)

This bill prohibits CDCR from cooperating with ICE but only as it pertains to some undocumented individuals. Specifically, this bill prohibits CDCR from providing information or assistance to ICE if the person is being released: on elderly parole; on medical parole; on compassionate release; pursuant to a youth offender parole hearing; due to the vacatur of a felony murder conviction and resentencing; due to the vacatur of a conviction because the subject was a victim of human trafficking or intimate partner violence; due to resentencing based on childhood trauma; due to being a youthful offender or a victim of human trafficking or intimate partner violence; due to resentencing pursuant to the California Racial Justice Act; or due to a grant of clemency.

This bill also repeals provisions of law that require CDCR to cooperate with DHS.

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

According to the Senate Appropriations Committee, 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).

SUPPORT: (Verified 9/1/23)

Alliance for Boys and Men of Color (co-source)
Asian Americans Advancing Justice - Asian Law Caucus (co-source)
Asian Americans Advancing Justice-Southern California (co-source)
Asian Prisoner Support Committee (co-source)
Buen Vecino (co-source)
California Coalition for Women Prisoners (co-source)
California Immigrant Policy Center (co-source)
Communities United for Restorative Youth Justice (co-source)
Freedom for Immigrants (co-source)
Harbor Institute for Immigrant and Economic Justice (co-source)
ICE Out of Marin (co-source)
Indivisible Sausalito (co-source)
Interfaith Movement for Human Integrity (co-source)
National Day Laborer Organizing Network (co-source)
Orange County Rapid Response Network (co-source)
San Diego Immigrant Rights Consortium (co-source)

San Francisco Public Defender (co-source)
SIREN: Services Immigrant Rights and Education Network (co-source)
Tsuru for Solidarity (co-source)
VietRISE (co-source)
18 Million Rising
AAPIs for Civic Empowerment Education Fund
ACLU California Action
Alianza
Alliance of Californians for Community Empowerment Action
Alliance San Diego
Amnesty International Sacramento Group
Amnesty International USA
Amnesty International USA, Group 30, San Francisco
API Equality-LA
Armenian National Committee of America - Western Region
Bend the Arc: Jewish Action, Southern California
Berkeley Society of Friends
CAIR Los Angeles
California Attorneys for Criminal Justice
California Commission on Asian and Pacific Islander American Affairs
California League of United Latin American Citizens
California Public Defenders Association
Center for Empowering Refugees and Immigrants
Chinese for Affirmative Action
Chinese Progressive Association
Coalition for Humane Immigrant Rights
County of Los Angeles Board of Supervisors
Courage California
Dolores Huerta Foundation
Ella Baker Center for Human Rights
Empowering Marginalized Asian Communities
Empowering Pacific Islander Communities
Episcopal Diocese of San Joaquin
Estela Bravo Soperanes
Felony Murder Elimination Project
Florin Japanese American Citizens League - Sacramento Valley
Friends Committee on Legislation of California
Grantmakers Concerned With Immigrants and Refugees
GRIP Training Institute
Homerise San Francisco

Human Impact Partners
Immigrant Legal Resource Center
Indivisible CA Statestrong
Indivisible Sacramento
Indivisible San Francisco
Initiate Justice
Inland Coalition for Immigrant Justice
Japanese American Citizens League, Northern California Western Nevada Pacific
District District Youth Board
Kehilla Community Synagogue Immigration Committee
Knox Immigration Team, From Knox Presbyterian Church
Lakeshore Avenue Baptist Church
Legal Services for Prisoners With Children
Long Beach Immigrant Rights Coalition
MILPA
National Association of Social Workers, California Chapter
Nikkei Progressives
Oakland Privacy
Orange County Congregation Community Organization
Orange County Equality Coalition
People's Budget Orange County
Pomona Economic Opportunity Center
Project Rebound, San Francisco State University
Represent Justice
San Diego North County Amnesty International Chapter
San Francisco Peninsula People Power
San Jose Nikkei Resisters
San Mateo County Democracy for America
Santa Cruz Barrios Unidos
SEIU California
Silicon Valley De-Bug
Sister Warriors Freedom Coalition
Smart Justice California
South Asian Network
South Bay People Power
Southeast Asia Resource Action Center
Starting Over
The Orange County Justice Fund
Transforming Justice Orange County
UnCommon Law

Urban Strategies Council
Venture County Community Healing Collaborative
Youth Leadership Institute

OPPOSITION: (Verified 9/1/23)

None received

ASSEMBLY FLOOR: 54-18, 5/30/23

AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Lowenthal, Maienschein, McCarty, McKinnor, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Muratsuchi, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron

NO VOTE RECORDED: Bains, Bauer-Kahan, Irwin, Low, Petrie-Norris, Schiavo, Soria, Wallis

Prepared by: Stephanie Jordan / PUB. S. /
9/2/23 9:51:59

**** END ****