

GOVERNOR'S VETO
AB 1306 (Wendy Carrillo)
As Enrolled September 12, 2023
2/3 vote

SUMMARY

Prohibits the California Department of Corrections and Rehabilitation (CDCR) from cooperating with the United States Department of Homeland Security (DHS), as specified.

Major Provisions

- 1) Prohibits CDCR from cooperating with the 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 persons 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 refer the name and location of any incarcerated person or ward who may be an undocumented immigrant and who may be subject to deportation to the DHS for a determination of whether the person is undocumented and subject to deportation and requiring CDCR to make case files available to the DHS for purposes of investigation.
- 4) Repeals provisions of law, requiring CDCR to cooperate with the 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.
- 5) Contains legislative findings and declarations.

Governor's Veto Message

This bill prohibits the California Department of Corrections and Rehabilitation (CDCR) from providing any information or responding to a request for coordination from the U.S. Immigration and Customs Enforcement (ICE), a federal law enforcement agency, regarding the imminent

release of an incarcerated non-citizen, if the person is being released under specific circumstances.

The bill would prevent information sharing and coordination upon a person's release from CDCR custody for a significant number of people and, as a result, would impede CDCR's interaction with a federal law enforcement agency charged with assessing public safety risks.

I believe current law strikes the right balance on limiting interaction to support community trust and cooperation between law enforcement and local communities.

However, as an Administration, we recognize that improvements in this process are important. CDCR will limit how it communicates with ICE as a federal law enforcement agency, so information is only provided to ICE when a non-citizen individual enters prison and is approaching their release date. ICE will determine how it will proceed with its enforcement of federal law.

COMMENTS

According to the Author

"AB 1306, 'The HOME Act' is a more narrow approach to end transfers between the Department of Corrections and Rehabilitation (CDCR) and Immigration Customs Enforcement (ICE) for individuals who have served their time and been paroled. The bill focuses on previous restorative justice legislation that has been signed into law and ensures individuals under those policies are able to return home and restart their lives regardless of their citizenship status."

Arguments in Support

According to the *California Coalition for Women Prisoners*, a co-sponsor of this bill, "In recent years, the Legislature, California voters, and Governors have demonstrated a strong commitment to reforming our criminal legal system and addressing systemic racism and mass incarceration by enacting landmark reforms. Tragically, solely because of their place of birth, immigrants and refugees who would otherwise benefit from these reforms approved by the legislature are instead released to ICE and subjected to the double punishment of ICE detention and deportation. Once in immigration detention, immigrants face dire consequences including lack of due process, no appointed legal counsel, no right to bail, and an arbitrary second detention never handed down in a criminal court in facilities beyond state oversight where abuses are well documented. Moreover, this unjust practice perpetuates a criminal legal system that treats individuals unequally simply because of where they were born. The state's role in voluntarily sending California residents to the custody of ICE undercuts our progress towards a more equitable society, and unfairly targets immigrants and refugees.

"When California's prisons voluntarily and unnecessarily transfer immigrant and refugee community members eligible for release from state custody to ICE for immigration detention and deportation purposes, they also subject these community members to permanent separation from the country, their families, homes, and livelihoods. California should not be actively participating 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.

"In addition, state collaboration in federal immigration enforcement programs has raised constitutional concerns, including arrests and detentions that violate the Fourth Amendment to the United States Constitution, and that target immigrants on the basis of race or ethnicity in violation of the Equal Protection Clause.

"Finally, transferring California residents to ICE custody is costly. By passing AB 1306 California stands to save state resources that can be invested in mental health, housing, youth development, and access to living wages— all of which have been proven to reduce crime and stabilize communities.

"As the state with the largest immigrant community, California has an ethical and moral obligation to be a national leader that ensures the steps the state has already taken towards reforming our criminal legal system includes our immigrants and refugee communities. California should not subject community members to double punishment, nor disregard otherwise applicable laws that would enable their return home purely because they are refugees or immigrants. Harmonizing broadly-supported reforms to ensure equal application to immigrants and refugees will reunite families, strengthen communities, and fulfill the state's commitment to addressing racial injustice and upholding our values of fairness and equality."

Arguments in Opposition

None Submitted.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, potential costs to CDCR (General Fund) of an unknown but potentially significant amount. CDCR reports that if it stops cooperating with DHS as required by this bill, fewer formerly incarcerated people will be taken into DHS custody or deported. If that occurs, inmates who would have otherwise been deported or taken into DHS custody upon their release from prison may require parole supervision by CDCR. CDCR estimates that increased parole supervision costs resulting from this bill may be in the low millions of dollars, but it is difficult to predict these costs because there are so many potential intervening factors. For example, even without CDCR's cooperation, DHS would presumably detain and deport some formerly incarcerated people who are eligible for deportation, just as DHS does for other people in the community. CDCR also notes that this bill may result in additional habeas petitions and civil litigation, resulting in unknown but potentially significant litigation costs.

VOTES

ASM PUBLIC SAFETY: 6-0-2

YES: Jones-Sawyer, Bonta, Jackson, Ortega, Santiago, Zbur

ABS, ABST OR NV: Alanis, Lackey

ASM JUDICIARY: 8-3-0

YES: Maienschein, Connolly, Haney, Kalra, Pacheco, Papan, Reyes, Robert Rivas

NO: Essayli, Dixon, Sanchez

ASM APPROPRIATIONS: 11-4-1

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

NO: Megan Dahle, Dixon, Mathis, Sanchez

ABS, ABST OR NV: Robert Rivas

ASSEMBLY FLOOR: 54-18-8

YES: 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

NO: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Muratsuchi, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron

ABS, ABST OR NV: Bains, Bauer-Kahan, Irwin, Low, Petrie-Norris, Schiavo, Soria, Wallis

SENATE FLOOR: 29-9-2

YES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener

NO: Alvarado-Gil, Dahle, Grove, Hurtado, Jones, Nguyen, Niello, Seyarto, Wilk

ABS, ABST OR NV: Caballero, Ochoa Bogh

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