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## **OLR Bill Analysis**

### **sHB 6659**

#### ***AN ACT CONCERNING CIVIL IMMIGRATION DETAINERS.***

#### **SUMMARY:**

This bill prohibits law enforcement officers from (1) holding an individual under a civil immigration detainer (see BACKGROUND) beyond the time they would otherwise release the individual or (2) facilitating the individual's transfer to U.S. Immigration and Customs Enforcement (ICE), unless he or she has been convicted of a class A felony or its equivalent or has given written consent. It allows persons aggrieved by a violation of these provisions to bring an action in the Superior Court for relief.

The bill creates an annual reporting requirement for all state departments or divisions that employ law enforcement officers. Starting by December 31, 2014, it requires them to post on their website a report with information for the prior 12-month period, including:

1. the number of individuals with convictions held or transferred with or without consent under a civil immigration detainer,
2. a list of their felony and misdemeanor convictions, and
3. the amount of funding requested and received from the federal government under the ICE program.

The bill also:

1. prohibits law enforcement officers from holding an individual for more than 24 hours under a civil immigration detainer;
2. requires information obtained in such a holding to be kept confidential;
3. confers no authority on anyone to hold an individual on a civil

immigration detainer beyond the authority he or she held prior to January 1, 2014;

4. allows state agencies to cooperate with federal immigration authorities when required to do so under federal law; and
5. does not create any power, duty, or obligation in conflict with any federal or state law.

EFFECTIVE DATE: January 1, 2014

## **DEFINITIONS**

### ***Convicted of a Crime***

Under the bill, “convicted of a crime” means a final judgment of guilt entered with respect to an individual age 21 or older for (1) a class A felony in the Superior Court or (2) an offense in any other court of competent jurisdiction within the United States which, if committed in this state, would be a class A felony, provided (a) the judgment occurred not more than 10 years before the civil immigration detainer request or (b) the individual was released after serving a sentence for a class A felony conviction not more than five years before the request, whichever is later.

### ***Department***

Under the bill, “department” means a department or division that employs a law enforcement officer.

### ***Federal immigration Authority***

Under the bill, “federal immigration authority” means any officer, employee, or other person paid by or acting as an agent of the U.S. Immigration and Customs Enforcement or any division thereof or any officer, employee, or other person otherwise paid by or acting as an agent of the U.S. Department of Homeland Security who is charged with enforcing of the civil provisions of the Immigration and Nationality Act.

### ***Law Enforcement Officer***

Under the bill, “law enforcement officer” means:

1. the Department of Correction,
2. each municipal police department,
3. the State Police,
4. each judicial marshal and state marshal, and
5. each officer, employee, or other person otherwise paid by or acting as an agent of any of the above.

### **CIVIL IMMIGRATION DETAINDER**

#### ***Holding and Transferring Individuals to ICE***

The bill prohibits a law enforcement officer, regardless of a civil immigration detainer request, from (1) holding an individual beyond the time when he or she would otherwise be released from the department's custody or (2) using time or resources to facilitate his or her transfer to ICE, unless:

1. a search of state and federal databases, conducted at or about the time when such individual would otherwise be released from the department's custody, indicates that such individual has been convicted of a crime (class A felony or its equivalent under the circumstances specified above), or
2. the individual consents, in writing, to early release and transfer to ICE.

The bill prohibits a law enforcement officer, in carrying out a civil immigration detainer, from holding of an individual for more than 24 hours and requires any information obtained to be maintained as confidential.

The bill confers no authority on any person to hold an individual on a civil immigration detainer beyond the authority that person held prior to January 1, 2014.

#### ***Conflict with Federal and State Laws***

The bill specifies that it does not (1) prohibit state agencies from

cooperating with federal immigration authorities when federal law requires them to do so or (2) create any power, duty, or obligation in conflict with any federal or state law.

***Action for Relief***

The bill allows anyone aggrieved by a violation of these provisions to bring an action in the Superior Court, including:

1. an action to secure a permanent injunction enjoining any act or practice that violates these provisions,
2. an action to require compliance with these requirements, or
3. any other appropriate relief.

***Law Enforcement Reporting Requirement***

Under the bill, all state departments or divisions that employ law enforcement officers must post annually, starting by December 31, 2014, on their Internet website, a report that must include the following information for the prior 12-month period:

1. the number of individuals convicted of a crime who were held, with or without consent, on civil immigration detainers beyond the time when they would otherwise be released from the department's custody;
2. the number of individuals convicted of a crime who were transferred, with or without consent, to the custody of federal immigration authorities on civil immigration detainers;
3. a list of the felony and misdemeanor convictions for all such individuals; and
4. the amount of funding requested and received under the ICE criminal alien program or any successor program.

**BACKGROUND**

***Civil Immigration Detainer***

An immigration detainer is a notice of action, from an authorized

immigration officer to any other federal, state, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department of Homeland Security seeks to arrest and remove an alien presently in the custody of that agency. (8 CFR § 287.7(a)).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 11 (04/16/2013)