



House of Representatives

General Assembly

File No. 694

January Session, 2013

Substitute House Bill No. 6659

House of Representatives, May 2, 2013

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CIVIL IMMIGRATION DETAINERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2014*) (a) For the purposes of
2 this section:

3 (1) "Civil immigration detainer" means a detainer request issued
4 pursuant to 8 CFR 287.7;

5 (2) "Convicted of a crime" means a final judgment of guilt entered
6 with respect to an individual twenty-one years of age or older on a
7 class A felony in the Superior Court, or a final judgment of guilt
8 entered with respect to an individual twenty-one years of age or older
9 for an offense in any other court of competent jurisdiction within the
10 United States which, if committed in this state, would be a class A
11 felony, provided either such judgment of guilt was entered not more
12 than ten years prior to the civil immigration detainer, or the individual
13 was released after serving a sentence for a class A felony conviction
14 not more than five years prior to the civil immigration detainer,

15 whichever is later;

16 (3) "Department" means a department or division that employs a
17 law enforcement officer;

18 (4) "Federal immigration authority" means any officer, employee or
19 other person otherwise paid by or acting as an agent of United States
20 Immigration and Customs Enforcement or any division thereof or any
21 officer, employee or other person otherwise paid by or acting as an
22 agent of the United States Department of Homeland Security who is
23 charged with enforcement of the civil provisions of the Immigration
24 and Nationality Act; and

25 (5) "Law enforcement officer" means:

26 (A) The Department of Correction and each officer, employee or
27 other person otherwise paid by or acting as an agent of the
28 Department of Correction;

29 (B) Each municipal police department and each officer, employee or
30 other person otherwise paid by or acting as an agent of a municipal
31 police department;

32 (C) The Division of State Police within the Department of
33 Emergency Services and Public Protection and each officer, employee
34 or other person otherwise paid by or acting as an agent of the division;
35 and

36 (D) Each judicial marshal and state marshal and each officer,
37 employee or other person otherwise paid by or acting as an agent of a
38 judicial marshal or state marshal.

39 (b) A law enforcement officer shall not give effect to a civil
40 immigration detainer by:

41 (1) Holding an individual beyond the time when such individual
42 would otherwise be released from the department's custody, or

43 (2) Otherwise expending time or resources to facilitate the

44 individual's transfer to United States Immigration and Customs
45 Enforcement.

46 (c) Subsection (b) of this section shall not apply when:

47 (1) A search of state and federal databases, conducted at or about
48 the time when such individual would otherwise be released from the
49 department's custody, indicates that such individual has been
50 convicted of a crime; or

51 (2) The individual consents, in writing, to early release and transfer
52 to United States Immigration and Customs Enforcement pursuant to
53 section 18-100g or 54-125a of the general statutes.

54 (d) In no event shall an individual be held pursuant to a civil
55 immigration detainer for a period of more than twenty-four hours.

56 (e) Nothing in this section shall affect the obligation of a department
57 to maintain the confidentiality of any information obtained pursuant to
58 this section.

59 (f) Nothing in this section shall be construed to confer authority on
60 any person to hold an individual on a civil immigration detainer
61 beyond the authority, if any, that such person held prior to January 1,
62 2014.

63 (g) Nothing in this section shall be construed to (1) prohibit any
64 state agency from cooperating with federal immigration authorities
65 when required under federal law, or (2) create any power, duty or
66 obligation in conflict with any federal law or any other provision of the
67 general statutes.

68 (h) Any person aggrieved by a violation of this section may bring an
69 action in the Superior Court, including an action (1) to secure a
70 permanent injunction enjoining any act or practice that constitutes a
71 violation of this section, (2) to require compliance with this section, or
72 (3) for such other relief as may be appropriate.

73 (i) Not later than December 31, 2014, and annually thereafter, each
74 department shall post a report on such department's Internet web site
75 that includes the following information for the prior twelve-month
76 period:

77 (1) The number of individuals held on civil immigration detainees
78 pursuant to subdivision (1) of subsection (c) of this section beyond the
79 time when such individual would otherwise be released from the
80 department's custody, and a list of any felony convictions for such
81 individuals, or any misdemeanor convictions for such individuals if
82 there are no felony convictions for such individuals;

83 (2) The number of individuals held on civil immigration detainees
84 pursuant to subdivision (2) of subsection (c) of this section beyond the
85 time when such individual would otherwise be released from the
86 department's custody, and a list of any felony convictions for such
87 individuals, or any misdemeanor convictions for such individuals if
88 there are no felony convictions for such individuals;

89 (3) The number of individuals transferred to the custody of federal
90 immigration authorities on civil immigration detainees pursuant to
91 subdivision (1) of subsection (c) of this section, and a list of any felony
92 convictions for such individuals, or any misdemeanor convictions for
93 such individuals if there are no felony convictions for such individuals;

94 (4) The number of individuals transferred to the custody of federal
95 immigration authorities on civil immigration detainees pursuant to
96 subdivision (2) of subsection (c) of this section, and a list of any felony
97 convictions for such individuals, or any misdemeanor convictions for
98 such individuals if there are no felony convictions for such individuals;
99 and

100 (5) The amount of funding requested and received from the federal
101 government with respect to the criminal alien program of United
102 States Immigration and Customs Enforcement or any successor
103 program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2014</i>	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill creates an annual reporting requirement for the Department of Correction, Department of Emergency Services and Public Protection, Judicial Department, and municipal police departments effective December 31, 2014 and does not result in a fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

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)