

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 370

Short Title: Require Sheriff Cooperation with ICE. (Public)

Sponsors: Representatives D. Hall, Jones, Saine, and C. Smith (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, State and Local Government, if favorable, Rules, Calendar,
and Operations of the House

March 18, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LOCAL LAW ENFORCEMENT TO HOLD PRISONERS SUBJECT
3 TO UNITED STATES DEPARTMENT OF HOMELAND SECURITY DETAINERS, TO
4 CREATE A PRIVATE RIGHT OF ACTION AGAINST LOCAL JURISDICTIONS THAT
5 DO NOT COMPLY WITH STATE LAWS RELATED TO IMMIGRATION, AND TO
6 ENCOURAGE COMMUNITY OUTREACH PROGRAMS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 162-62 reads as rewritten:

9 "§ 162-62. Legal status of prisoners.

10 (a) When any person charged with a ~~felony~~ criminal offense or an impaired driving
11 offense is confined for any period in a county jail, local confinement facility, district confinement
12 facility, or satellite jail/work release unit, the administrator or other person in charge of the
13 facility shall attempt to determine if the prisoner is a legal resident of the United States by an
14 inquiry of the prisoner, or by examination of any relevant documents, or both.

15 (b) If the administrator or other person in charge of the facility is unable to determine if
16 that prisoner is a legal resident or citizen of the United States or its territories, the administrator
17 or other person in charge of the facility holding the ~~prisoner, where possible, prisoner~~ shall make
18 a query of Immigration and Customs Enforcement of the United States Department of Homeland
19 Security. ~~If the prisoner has not been lawfully admitted to the United States, the United States~~
20 ~~Department of Homeland Security will have been notified of the prisoner's status and~~
21 ~~confinement at the facility by its receipt of the query from the facility.~~

22 (b1) If the prisoner is subject to an immigration detainer request issued by the United States
23 Department of Homeland Security, the facility shall:

24 (1) Comply with, honor, and fulfill any request made in the detainer request
25 provided by the federal government.

26 (2) Inform the prisoner that the prisoner is being held pursuant to an immigration
27 detainer request issued by the United States Department of Homeland
28 Security.

29 (b2) The administrator or other person in charge of the facility is not required to comply
30 with subsection (b1) of this section with respect to a person who is a victim of or witness to a
31 criminal offense, is reporting a criminal offense, or has provided proof that the person is a citizen
32 of the United States or that the person has lawful immigration status in the United States.

33 (c) Nothing in this section shall be construed to deny bond to a prisoner or to prevent a
34 prisoner from being released from confinement when that prisoner is otherwise eligible for



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1 ~~release~~.release unless a request, approval, or other instruction has been provided to the local
 2 confinement facility by the federal government.

3 (d) Repealed by Session Laws 2010-97, s. 12, effective July 20, 2010.

4 (e) Beginning January 1, 2020, and annually thereafter, the administrator or other person
 5 in charge of the facility shall report the number of queries performed under subsection (b) of this
 6 section and the results of those queries to the Governor's Crime Commission of the Department
 7 of Public Safety. The Commission shall make the reports available to the public."

8 **SECTION 2.** G.S. 153A-145.5(b) reads as rewritten:

9 "(b) ~~No~~Except as provided in G.S. 162-62(b2), no county shall do any of the following
 10 related to information regarding the citizenship or immigration status, lawful or unlawful, of any
 11 individual:

- 12 (1) Prohibit law enforcement officials or agencies from gathering such
 13 information.
- 14 (2) Direct law enforcement officials or agencies not to gather such information.
- 15 (3) Prohibit the communication of such information to federal law enforcement
 16 agencies.
- 17 (4) Prohibit federal law enforcement officers from entering and conducting
 18 enforcement activities at a county jail, local confinement facility, district
 19 confinement facility, or satellite jail/work release unit."

20 **SECTION 3.** G.S. 160A-205.2(b) reads as rewritten:

21 "(b) ~~No~~Except as provided in G.S. 162-62(b2), no city shall do any of the following
 22 related to information regarding the citizenship or immigration status, lawful or unlawful, of any
 23 individual:

- 24 (1) Prohibit law enforcement officials or agencies from gathering such
 25 information.
- 26 (2) Direct law enforcement officials or agencies not to gather such information.
- 27 (3) Prohibit the communication of such information to federal law enforcement
 28 agencies.
- 29 (4) Prohibit federal law enforcement officers from entering and conducting
 30 enforcement activities at a county jail, local confinement facility, district
 31 confinement facility, or satellite jail/work release unit."

32 **SECTION 4.** Chapter 64 of the General Statutes is amended by adding a new Article
 33 to read:

34 "Article 3.

35 "Local Government Noncompliance With State Laws Related to Immigration.

36 "**§ 64-40. Private enforcement.**

37 (a) In addition to any other remedies at law or in equity, any person who resides within
 38 the jurisdiction of a city, county, or local law enforcement agency that the person believes is not
 39 in compliance with a State law related to immigration may bring an action for declaratory and
 40 injunctive relief. Such action shall be filed in the superior court of any county in which the
 41 defendant city, county, or local law enforcement agency has jurisdiction. The court shall award
 42 the prevailing party in an action brought under this section reasonable attorneys' fees and court
 43 costs as authorized by law.

44 (b) The court shall impose a civil penalty against any city, county, or law enforcement
 45 agency that fails to comply with an order issued as a result of an action pursuant to this section
 46 as follows:

- 47 (1) For a first offense, not less than one thousand dollars (\$1,000) and not more
 48 than one thousand five hundred dollars (\$1,500) per day for each day the city,
 49 county, or local law enforcement agency fails to comply with the order.
- 50 (2) For each subsequent offense, not less than twenty-five thousand dollars
 51 (\$25,000) and not more than twenty-five thousand five hundred dollars

1 (\$25,500) for each day the city, county, or local law enforcement agency fails
2 to comply with the order.

3 (c) As used in this section, the following definitions apply:

4 (1) Local law enforcement agency. – A city police department, a county police
5 department, or a sheriff's office.

6 (2) State law related to immigration. – G.S. 153A-145.5, 160A-205.2, or 162-62."

7 **SECTION 5.** Article 13 of Chapter 160A is amended by adding a new section to

8 read:

9 **"§ 160A-290. Community outreach.**

10 The chief of police of a local police department or of a county police department may adopt
11 a written policy requiring the agency to perform community outreach activities to educate the
12 public that a law enforcement officer may not inquire into the immigration status of a victim of
13 or witness to an alleged criminal offense unless the officer determines that the inquiry is
14 necessary to investigate the offense or provide the victim or witness with information about
15 federal visas designated to protect individuals providing assistance to law enforcement. A policy
16 adopted under this section must include outreach to victims of sexual assault and domestic
17 violence."

18 **SECTION 6.** Article 3 of Chapter 162 of the General Statutes is amended by adding
19 a new section to read:

20 **"§ 162-27. Community outreach.**

21 The sheriff may adopt a written policy requiring the agency to perform community outreach
22 activities to educate the public that a law enforcement officer may not inquire into the
23 immigration status of a victim of or witness to an alleged criminal offense unless the officer
24 determines that the inquiry is necessary to investigate the offense or provide the victim or witness
25 with information about federal visas designated to protect individuals providing assistance to law
26 enforcement. A policy adopted under this section must include outreach to victims of sexual
27 assault and domestic violence."

28 **SECTION 7.** This act becomes effective December 1, 2019.