

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 370
Second Edition Engrossed 4/3/19

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 Joint Legislative Oversight Committee on Justice
7 and Public Safety. The Committee 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 conducting enforcement
18 activities, including direct communication with the individual and access to
19 any pertinent information or records pertaining to the individual incarcerated
20 at a county jail, local confinement facility, district confinement facility,
21 satellite jail, or work release unit."

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

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

- 26 (1) Prohibit law enforcement officials or agencies from gathering such
27 information.
- 28 (2) Direct law enforcement officials or agencies not to gather such information.
- 29 (3) Prohibit the communication of such information to federal law enforcement
30 agencies.
- 31 (4) Prohibit federal law enforcement officers from conducting enforcement
32 activities, including direct communication with the individual and access to
33 any pertinent information or records pertaining to the individual incarcerated
34 at a county jail, local confinement facility, district confinement facility,
35 satellite jail, or work release unit."

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

38 "Article 3.

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

40 "**§ 64-40. Private enforcement.**

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

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

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

4 (2) For each subsequent offense, not less than twenty-five thousand dollars
5 (\$25,000) and not more than twenty-five thousand five hundred dollars
6 (\$25,500) for each day the city, county, or local law enforcement agency fails
7 to comply with the order.

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

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

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

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

13 read:

14 **§ 160A-290. Community outreach.**

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

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

25 **§ 162-27. Community outreach.**

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

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