

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 318

Short Title: The Criminal Illegal Alien Enforcement Act. (Public)

Sponsors: Representatives D. Hall, Carson Smith, B. Jones, and Echevarria (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

March 10, 2025

A BILL TO BE ENTITLED

AN ACT TO MODIFY ELIGIBILITY FOR RELEASE AND REQUIRE NOTIFICATION OF RELEASE TO IMMIGRATION AND CUSTOMS ENFORCEMENT WHEN A PRISONER IS SUBJECT TO AN IMMIGRATION DETAINER AND ADMINISTRATIVE WARRANT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 162-62 reads as rewritten:

"§ 162-62. Legal status of prisoners.

(a) When any person is confined for any period in a county jail, local confinement facility, district confinement facility, satellite jail, or work release unit, the administrator or other person in charge of the facility shall attempt to determine if the prisoner is a legal resident of the United States by an inquiry of the prisoner, or by examination of any relevant documents, or both, if the person is charged with any of the following offenses:

(1) A felony under G.S. 90-95.

(2) A felony under ~~Article 6, Article 7B, Article 10, Article 10A, or Article 13A~~ any of the following Articles of Chapter 14 of the General Statutes:

a. Article 6.

b. Article 7B.

c. Article 10.

d. Article 10A.

e. Article 13A.

f. Article 14.

g. Article 16.

h. Article 16A.

i. Article 17.

j. Article 18.

k. Article 19.

l. Article 19A.

m. Article 19B.

n. Article 19C.

o. Article 20.

p. Article 20A.

q. Article 21.



- 1 (3) A Class A1 misdemeanor or felony under Article 8 of Chapter 14 of the
2 General Statutes.
3 (4) Any violation of G.S. 50B-4.1.
4 (5) Any offense involving impaired driving as defined in G.S. 20-4.01.

5 (b) If the administrator or other person in charge of the facility is unable to determine if
6 that prisoner is a legal resident or citizen of the United States or its territories, the administrator
7 or other person in charge of the facility holding the prisoner shall make a query of Immigration
8 and Customs Enforcement of the United States Department of Homeland Security. If the prisoner
9 has not been lawfully admitted to the United States, the United States Department of Homeland
10 Security will have been notified of the prisoner's status and confinement at the facility by its
11 receipt of the query from the facility.

12 (b1) When any person charged with a criminal offense is confined for any period in a
13 county jail, local confinement facility, district confinement facility, satellite jail, or work release
14 unit, and the administrator or other person in charge of the facility has been notified that
15 Immigration and Customs Enforcement of the United States Department of Homeland Security
16 has issued a detainer and administrative warrant that reasonably appears to be for the person in
17 custody, the following shall apply:

- 18 (1) Prior to the prisoner's release, and after receipt of the detainer and
19 administrative warrant, or a copy thereof, by the administrator or other person
20 in charge of the facility, the prisoner shall be taken without unnecessary delay
21 before a State judicial official who shall be provided with the detainer and
22 administrative warrant, or a copy thereof.
23 (2) The judicial official shall issue an order directing the prisoner be held in
24 custody if the prisoner appearing before the judicial official is the same person
25 subject to the detainer and administrative warrant.
26 (3) Unless continued custody of the prisoner is required by other legal process, a
27 prisoner held pursuant to an order issued under this subsection shall be
28 released upon the first of the following conditions:
29 a. ~~The passage of 48 hours from receipt of the detainer and administrative~~
30 ~~warrant.~~ the time the prisoner would otherwise be released from the
31 facility.
32 b. Immigration and Customs Enforcement of the United States
33 Department of Homeland Security takes custody of the prisoner.
34 c. The detainer is rescinded by Immigration and Customs Enforcement
35 of the United States Department of Homeland Security.
36 (4) For any prisoner held pursuant to an order issued under this subsection, within
37 two hours of the time when the prisoner would otherwise be released from the
38 facility, the administrator or other person in charge of the facility shall notify
39 Immigration and Customs Enforcement of the United States Department of
40 Homeland Security of the date and time that the prisoner will be released
41 pursuant to sub-subdivision a. of subdivision (3) of this subsection. The
42 notification shall be made in the manner indicated on the Department of
43 Homeland Security Immigration Detainer – Notice of Action form.

44 (b2) No State or local law enforcement officer or agency shall have criminal or civil
45 liability for action taken pursuant to an order issued under subsection (b1) of this section.

46 (c) Except as provided in subsection (b1) of this section, nothing in this section shall be
47 construed to deny bond to a prisoner or to prevent a prisoner from being released from
48 confinement when that prisoner is otherwise eligible for release.

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50 **SECTION 1.(b)** This section becomes effective December 1, 2025, and applies to
51 offenses committed on or after that date.

1 **SECTION 2.(a)** If any provision of this act or its application is held invalid, the
2 invalidity does not affect other provisions or applications of this act that can be given effect
3 without the invalid provisions or application and, to this end, the provisions of this act are
4 severable.

5 **SECTION 2.(b)** Except as otherwise provided, this act is effective when it becomes
6 law.