

ASSEMBLY BILL

No. 2418

Introduced by Assembly Member Huff

February 21, 2008

An act to add Section 667.21 to the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

AB 2418, as introduced, Huff. Bail.

Existing law establishes the right to bail and various restrictions and regulations pertaining to granting or denying bail.

This bill would provide that no person charged with one or more of certain violent or gang-related felonies shall be eligible for bail or released pending trial if, at the time of the alleged offense, the person was in the United States illegally. The bill would also require the sheriff of the county in which the subject is being held to notify federal Immigration and Customs Enforcement of the person's arrest and charges and would also require the sheriff, district attorney, and trial courts of each county to record the status of any illegal alien charged, booked, or convicted of a felony and report this information to the Department of Justice for inclusion in that person's criminal history so that reimbursement may be sought from the federal government for the cost of incarceration.

By imposing additional burdens on local prosecuting agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 667.21 is added to the Penal Code, to
2 read:

3 667.21. (a) Notwithstanding any other law, no person charged
4 with a violent felony enumerated in subdivision (c) of Section
5 667.5 or a gang-related felony in violation of Section 186.22 shall
6 be eligible for bail or released on his or her own recognizance
7 pending trial if, at the time of the alleged offense, he or she was
8 illegally within the United States. The sheriff of the county in
9 which the subject is being held shall, as soon as practical, notify
10 the federal Immigration and Customs Enforcement of the person’s
11 arrest and charges.

12 (b) This section shall not be construed to authorize the arrest of
13 any person based upon his or her alien status or for violation of
14 federal immigration laws.

15 (c) The sheriff, district attorney, and trial courts of each county
16 shall record the status of any illegal alien charged with, booked
17 for, or convicted of a felony and report this information to the
18 Department of Justice for inclusion in that person’s criminal history
19 so that reimbursement may be sought from the federal government
20 for the cost of incarceration.

21 (d) The presiding judge shall make appropriate inquiries into
22 the legal status of a defendant at the defendant’s bail hearings.

23 SEC. 2. If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.