

AMENDED IN ASSEMBLY MAY 16, 2011

AMENDED IN ASSEMBLY APRIL 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1081

Introduced by Assembly Member Ammiano
(~~Coauthor~~ ~~Coauthors~~: Assembly Member Members Cedillo,
Monning, and Skinner)
(Coauthor: Senator Yee)

February 18, 2011

An act to add Chapter 17.1 (commencing with Section 7282) to Division 7 of Title 1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1081, as amended, Ammiano. State government: federal immigration policy enforcement.

Existing law, setting forth the findings and declarations of the Legislature, provides that all protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, within the state, and further provides that, for purposes of enforcing specified state laws, a person's immigration status is irrelevant to the issue of liability, and prohibits, in proceedings or discovery undertaken to enforce those state laws, an inquiry into a person's immigration status except where the person seeking to make the inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law.

This bill would state the findings and declarations of the Legislature with respect to a memorandum of agreement with the United States Department of Homeland Security, regarding the implementation of the Immigration and Customs Enforcement’s Secure Communities program, that the Bureau of Criminal Identification and Information within the Department of Justice entered into on April 10, 2009. The bill would require the bureau to modify that agreement, according to specified requirements, or to exercise its authority under the agreement to terminate the agreement.

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Washington, Pennsylvania, and Washington, D.C. have all
4 refused to enter into a memorandum of agreement with the United
5 States Department of Homeland Security regarding the Immigration
6 and Customs Enforcement’s Secure Communities program because
7 the program undermines community policing, public safety, and
8 protections against racial profiling. Pursuant to the program, federal
9 officials have claimed the authority to use state and local law
10 enforcement resources for the purpose of channeling individuals
11 into federal civil immigration enforcement based on minimal
12 contact with law enforcement.

13 (2) Immigrant residents who are victims or witnesses to crime,
14 including domestic violence related crimes, are less likely to report
15 the crime or cooperate with law enforcement because any contact
16 with law enforcement could result in deportation, without regard
17 to whether the arrest or the result of a mistake, or merely a routine
18 practice of questioning individuals involved in a dispute without
19 pressing charges. Victims or witnesses to crimes may have recourse
20 to lawful status (such as U-visas or T-visas) that detention resulting
21 from Secure Communities obstructs.

22 (b) It is the intent of the Legislature that the Bureau of Criminal
23 Identification and Information within the Department of Justice
24 modify the memorandum of agreement with the United States
25 Department of Homeland Security, regarding the implementation
26 of the Immigration and Customs Enforcement’s Secure

1 Communities program; it entered into on April 10, 2009, as
2 specified in this act, thereby paying respect to the wishes of several
3 local jurisdictions that have actively worked for decades to build
4 community trust in law enforcement and have expressed concern
5 that the Secure Communities program has been deployed without
6 adequate notice and without their consultation or consent.

7 SEC. 2. Chapter 17.1 (commencing with Section 7282) is added
8 to Division 7 of Title 1 of the Government Code, to read:

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10 CHAPTER 17.1. FEDERAL IMMIGRATION POLICY ENFORCEMENT

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12 7282. (a) The Bureau of Criminal Identification and
13 Information within the Department of Justice shall modify the
14 memorandum of agreement with the United States Department of
15 Homeland Security, which shall be referred to as the modified
16 *agreement*, regarding the implementation of the Immigration and
17 Customs Enforcement’s Secure Communities program in
18 accordance with all of the following requirements:

19 (1) The modified agreement shall authorize a local government
20 to participate in the Secure Communities program only upon the
21 passage of an ordinance or resolution authorizing participation by
22 the legislative body of the local government.

23 (2) The modified agreement shall require a local government
24 that opts to participate in the program, as provided in paragraph
25 (1), to prepare a plan to monitor and guard against racial profiling,
26 discouraging reporting by domestic violence victims, and harming
27 community policing overall. This plan shall be deemed a public
28 record for purposes of the California Public Records Act (Chapter
29 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
30 the Government Code). ~~The plan shall include provisions for the~~
31 ~~monthly release of data that address all of the following topics:~~

32 ~~(A) Stop and arrest data broken down by race, ethnicity,~~
33 ~~nationality, gender, arresting charge, booking charge, and ultimate~~
34 ~~disposition of booking charge.~~

35 ~~(B) The number of individuals identified for transfer to~~
36 ~~Immigration and Customs Enforcement officials through Secure~~
37 ~~Communities and a break down of the demographics and criminal~~
38 ~~history of those individuals by race, ethnicity, nationality, gender,~~
39 ~~booking charge, ultimate disposition of booking charge, Secure~~

1 ~~Communities offense level, and most serious prior conviction, if~~
2 ~~any.~~

3 ~~(C) The number of individuals held on Immigration and Customs~~
4 ~~Enforcement detainers and the length of those detentions.~~

5 ~~(D) Number of 911 calls with victim data broken down by race,~~
6 ~~ethnicity, and gender. Code).~~

7 (3) The modified agreement shall include all of the following
8 exemptions and limitations to the Secure Communities program:

9 ~~(A) A requirement that local law enforcement agencies shall~~
10 ~~not share the fingerprints of domestic violence victims with~~
11 ~~Immigration and Customs Enforcement officials.~~

12 ~~(B) A requirement that local law enforcement agencies shall~~
13 ~~not share the fingerprints of juveniles with Immigration and~~
14 ~~Customs Enforcement officials.~~

15 (A) *Protections for domestic violence victims.*

16 (B) *Protections for juveniles.*

17 (C) An explicit limitation on the sharing of fingerprints with
18 Immigration and Customs Enforcement officials to only those
19 individuals convicted, rather than merely accused, of a crime.

20 (4) The modified agreement shall include, but not be limited
21 to, all of the following safeguards against racial profiling:

22 (A) A prohibition against obtaining fingerprints for the purposes
23 of the Secure Communities program through the use of
24 checkpoints, and the stopping of individuals solely based on
25 perceived immigration status.

26 (B) A requirement that the Immigration and Customs
27 Enforcement establish a complaint process that allows for expedited
28 review of claims by those put into immigration removal
29 proceedings prior to conviction as a result of the program.

30 (5) The modified agreement shall include a requirement that
31 Immigration and Customs Enforcement make available to the
32 public on its Internet Web site quarterly statistics on the Secure
33 Communities program in this state that include the following metric
34 criteria:

35 (A) Number of searches to IDENT.

36 (B) Number of matches to IDENT data.

37 (C) Number of detainers issued by Immigration and Customs
38 Enforcement based on Level 1, Level 2, and Level 3 offense
39 categories.

1 (D) Number of detainees issued by Immigration and Customs
2 Enforcement where charges are never filed, are later dismissed,
3 or where there is ultimately no conviction.

4 (E) Number of Level 1, Level 2, and Level 3 arrestees who are
5 transferred into Immigration and Customs Enforcement custody
6 after being subjected to an Immigration and Customs Enforcement
7 detainer, where charges are never filed, are later dismissed, or
8 where there is ultimately no conviction.

9 (F) Number of identified detainees prosecuted criminally in
10 federal court.

11 (G) Number of identified detainees removed from the United
12 States.

13 (H) Number of identified United States citizens and persons
14 with lawful status identified through the Secure Communities
15 program.

16 (I) Nationality, age, and gender of individuals identified and
17 removed through the Secure Communities program.

18 (b) If the bureau is unable to fulfill the requirements of
19 subdivision (a), it shall exercise its authority under the agreement
20 to terminate the agreement.

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