

Assembly Joint Resolution

No. 21

**Introduced by Assembly Member Lopez
(Coauthor: Assembly Member Chu)**

June 9, 2015

Assembly Joint Resolution No. 21—Relative to immigration policy.

LEGISLATIVE COUNSEL’S DIGEST

AJR 21, as introduced, Lopez. Immigration policy: priority enforcement program.

This measure would state the Legislature’s opposition to the federal Priority Enforcement Program.

Fiscal committee: no.

1 WHEREAS, The United States Immigration and Customs
2 Enforcement (ICE) and the United States Department of Homeland
3 Security (DHS) intend to rollout a new program dubbed the Priority
4 Enforcement Program (PEP) upon the termination of the Secure
5 Communities Program (S-Comm); and
6 WHEREAS, Under PEP, ICE plans to institute a “request for
7 notification” in lieu of a “request for detention” (detainer) system
8 vis-a-vis local law enforcement; and
9 WHEREAS, Like S-Comm, PEP will shift onto local law
10 enforcement the burden of federal immigration policy enforcement
11 by requesting local law enforcement to perform federal immigration
12 enforcement duties; and
13 WHEREAS, This program will incorporate a three-tiered system
14 of civil enforcement priorities for the removal of undocumented
15 immigrants. Community members, advocates, and media reports

1 indicate that ICE has failed to apply or has inconsistently applied
2 the exceptions within each of the three enforcement priorities. In
3 some cases, it is reported that ICE has targeted individuals who
4 fall outside of the enforcement priorities; and

5 WHEREAS, Assembly Bill 4, Chapter 570 of the Statutes of
6 2013, also known as the Trust Act, prohibits California law
7 enforcement officials from detaining an individual on the basis of
8 an ICE hold after that individual becomes eligible for release from
9 custody, unless certain conditions are met, including, among other
10 things, that the individual has been convicted of specified crimes;
11 and

12 WHEREAS, Proposition 47 approved at the November 4, 2014,
13 statewide general election, which requires a misdemeanor sentence
14 instead of a felony sentence for certain drug and property offenses,
15 is inapplicable to persons with prior conviction for serious or
16 violent crime and registered sex offenders, thus serious criminal
17 offenders are being incarcerated; and

18 WHEREAS, Chapter 174 of the Statutes of 2014 (Senate Bill
19 1310 of the 2013-14 Regular Session), reduced the maximum
20 sentence for misdemeanors to 364 days; and

21 WHEREAS, All of these actions by the voters and Legislature
22 seek to ensure our state also prioritizes its resources and prevents
23 unintended immigration consequences deriving from minor
24 offenses; and

25 WHEREAS, In order to ensure that immigration enforcement
26 is just, fair, and takes into account the qualities of each individual
27 case, PEP must contain robust mechanisms for ensuring
28 accountability when law enforcement engages in questionable
29 enforcement operations or abusive tactics; and

30 WHEREAS, By deporting parents and children, PEP will lead
31 to the separation of mixed-status families, which represent up to
32 one-third of California's families, and cause well-documented
33 psychological trauma, especially to the children; and

34 WHEREAS, Requests for the application of prosecutorial
35 discretion should not summarily be denied, more information needs
36 to be made available about the weight that ICE allocates to positive
37 equities and negative factors, safeguards need to be in place so
38 that erroneous criminal history information can be contested and
39 excluded, and statistics and information documenting the number
40 of cases in which ICE has exercised prosecutorial discretion and

1 has denied such requests must be made available; now, therefore,
2 be it

3 *Resolved by the Assembly and the Senate of the State of*
4 *California, jointly,* That the Legislature of California opposes the
5 Priority Enforcement Program and any local law enforcement
6 involvement with federal immigration enforcement; and be it
7 further

8 *Resolved,* That the Chief Clerk of the Assembly transmit copies
9 of this resolution to the President and Vice President of the United
10 States, to the Speaker of the House of Representatives, to the
11 Minority Leader of the House of Representatives, to the Majority
12 Leader of the Senate, to the Minority Leader of the Senate, and to
13 each Senator and Representative from California in the Congress
14 of the United States.

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