

AMENDED IN ASSEMBLY AUGUST 24, 2015

AMENDED IN SENATE APRIL 16, 2015

**SENATE BILL**

**No. 417**

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**Introduced by ~~Senator Stone~~ *Senators Stone, Morrell, and Nielsen*  
(*Coauthors: Senators Bates, Berryhill, Fuller, Gaines, Moorlach, and  
Runner*)**

(*Coauthor: Assembly Member Patterson*)

February 25, 2015

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~~An act to amend Section 14215 of the Elections Code, relating to elections.~~ *An act to amend Section 7282.5 of the Government Code, relating to immigration enforcement, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 417, as amended, Stone. ~~Elections: election day procedures.~~ *Law enforcement: United States Immigration and Customs Enforcement holds.*

*Existing law prohibits a law enforcement official, as defined, from detaining an individual on the basis of a United States Immigration and Customs Enforcement hold after that individual becomes eligible for release from custody, unless, at the time that the individual becomes eligible for release from custody, certain conditions are met, including, among other things, that the continued detention of the individual on the basis of the immigration hold would not violate any federal, state, or local law, or local policy, and that the individual has been convicted of, or arrested for, specified crimes.*

*This bill would instead require a law enforcement official to detain an individual on the basis of a United States Immigration and Customs Enforcement hold for up to 48 hours, excluding Saturdays, Sundays,*

*and holidays, after that individual becomes eligible for release from custody if that individual has been convicted of, or arrested for, specified crimes and if the continued detention of the individual on the basis of the immigration hold would not violate any federal law. By imposing additional duties on local law enforcement officers, this bill would impose a state-mandated local program.*

*The bill would require a local agency that violates these provisions to pay a fine of \$100,000, to be collected by the Attorney General, and would allow the Attorney General to commence a civil action to enforce the fine. The bill would require proceeds of the fine to be deposited in the Restitution Fund, a continuously appropriated fund. By increasing deposits to be made to a continuously appropriated fund, this bill would make an appropriation.*

*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.*

~~Existing law requires the precinct board, before receiving any ballots, in the presence of any persons assembled at the polling place, to open and exhibit and close the ballot container or containers. Thereafter, existing law prohibits the ballot container or containers from being removed from the polling place or presence of the bystanders until all the ballots are counted, nor opened until after the polls are finally closed.~~

~~This bill would authorize the precinct board of a county with a geographic area of at least 2,500 square miles to remove the ballot container or containers from the polling place while the polls remain open only to facilitate the early delivery of ballots to the receiving centers or central counting places. The bill would prohibit a local agency exercising this authorization from seeking state reimbursement for associated costs. The bill would require the Secretary of State to adopt regulations for the secure delivery and transfer of the ballots to the receiving center or central counting place.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~yes. Fiscal committee: yes. State-mandated local program: ~~no~~yes.

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

1     SECTION 1. Section 7282.5 of the Government Code is  
2 amended to read:

3     7282.5. (a) A law enforcement official shall ~~have discretion~~  
4 ~~to~~ cooperate with federal immigration officials by detaining an  
5 individual on the basis of an immigration hold *for up to 48 hours,*  
6 *excluding Saturdays, Sundays, and holidays,* after that individual  
7 becomes eligible for release from ~~custody only~~ *custody*, if the  
8 continued detention of the individual on the basis of the  
9 immigration hold would not violate any ~~federal, state, or local~~  
10 ~~federal law, or any local policy, and only~~ under any of the  
11 following circumstances:

12     (1) The individual has been convicted of a serious or violent  
13 felony identified in subdivision (c) of Section 1192.7 of, or  
14 subdivision (c) of Section 667.5 of, the Penal Code.

15     (2) The individual has been convicted of a felony punishable  
16 by imprisonment in the state prison.

17     (3) The individual has been convicted within the past five years  
18 of a misdemeanor for a crime that is punishable as either a  
19 misdemeanor or a felony for, or has been convicted at any time of  
20 a felony for, any of the following offenses:

21     (A) Assault, as specified in, but not limited to, Sections 217.1,  
22 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5,  
23 4500, and 4501 of the Penal Code.

24     (B) Battery, as specified in, but not limited to, Sections 242,  
25 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and  
26 4501.5 of the Penal Code.

27     (C) Use of threats, as specified in, but not limited to, Sections  
28 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

29     (D) Sexual abuse, sexual exploitation, or crimes endangering  
30 children, as specified in, but not limited to, Sections 266, 266a,  
31 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288,  
32 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal  
33 Code.

34     (E) Child abuse or endangerment, as specified in, but not limited  
35 to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of  
36 the Penal Code.

37     (F) Burglary, robbery, theft, fraud, forgery, or embezzlement,  
38 as specified in, but not limited to, Sections 211, 215, 459, 463,

1 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal  
2 Code.

3 (G) Driving under the influence of alcohol or drugs, but only  
4 for a conviction that is a felony.

5 (H) Obstruction of justice, as specified in, but not limited to,  
6 Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

7 (I) Bribery, as specified in, but not limited to, Sections 67, 67.5,  
8 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

9 (J) Escape, as specified in, but not limited to, Sections 107, 109,  
10 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal  
11 Code.

12 (K) Unlawful possession or use of a weapon, firearm, explosive  
13 device, or weapon of mass destruction, as specified in, but not  
14 limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3,  
15 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2,  
16 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750,  
17 and 18755 of, and subdivisions (c) and (d) of Section 26100 of,  
18 the Penal Code.

19 (L) Possession of an unlawful deadly weapon, under the Deadly  
20 Weapons Recodification Act of 2010 (Part 6 (commencing with  
21 Section 16000) of the Penal Code).

22 (M) An offense involving the felony possession, sale,  
23 distribution, manufacture, or trafficking of controlled substances.

24 (N) Vandalism with prior convictions, as specified in, but not  
25 limited to, Section 594.7 of the Penal Code.

26 (O) Gang-related offenses, as specified in, but not limited to,  
27 Sections 186.22, 186.26, and 186.28 of the Penal Code.

28 (P) An attempt, as defined in Section 664 of, or a conspiracy,  
29 as defined in Section 182 of, the Penal Code, to commit an offense  
30 specified in this section.

31 (Q) A crime resulting in death, or involving the personal  
32 infliction of great bodily injury, as specified in, but not limited to,  
33 subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192,  
34 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

35 (R) Possession or use of a firearm in the commission of an  
36 offense.

37 (S) An offense that would require the individual to register as  
38 a sex offender pursuant to Section 290, 290.002, or 290.006 of the  
39 Penal Code.

1 (T) False imprisonment, slavery, and human trafficking, as  
2 specified in, but not limited to, Sections 181, 210.5, 236, 236.1,  
3 and 4503 of the Penal Code.

4 (U) Criminal profiteering and money laundering, as specified  
5 in, but not limited to, Sections 186.2, 186.9, and 186.10 of the  
6 Penal Code.

7 (V) Torture and mayhem, as specified in, but not limited to,  
8 Section 203 of the Penal Code.

9 (W) A crime threatening the public safety, as specified in, but  
10 not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a,  
11 451, and 11413 of the Penal Code.

12 (X) Elder and dependent adult abuse, as specified in, but not  
13 limited to, Section 368 of the Penal Code.

14 (Y) A hate crime, as specified in, but not limited to, Section  
15 422.55 of the Penal Code.

16 (Z) Stalking, as specified in, but not limited to, Section 646.9  
17 of the Penal Code.

18 (AA) Soliciting the commission of a crime, as specified in, but  
19 not limited to, subdivision (c) of Section 286 of, and Sections 653j  
20 and 653.23 of, the Penal Code.

21 (AB) An offense committed while on bail or released on his or  
22 her own recognizance, as specified in, but not limited to, Section  
23 12022.1 of the Penal Code.

24 (AC) Rape, sodomy, oral copulation, or sexual penetration, as  
25 specified in, but not limited to, paragraphs (2) and (6) of  
26 subdivision (a) of Section 261 of, paragraphs (1) and (4) of  
27 subdivision (a) of Section 262 of, Section 264.1 of, subdivisions  
28 (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section  
29 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal  
30 Code.

31 (AD) Kidnapping, as specified in, but not limited to, Sections  
32 207, 209, and 209.5 of the Penal Code.

33 (AE) A violation of subdivision (c) of Section 20001 of the  
34 Vehicle Code.

35 (4) The individual is a current registrant on the California Sex  
36 and Arson Registry.

37 (5) The individual is arrested and taken before a magistrate on  
38 a charge involving a serious or violent felony, as identified in  
39 subdivision (c) of Section 1192.7 or subdivision (c) of Section  
40 667.5 of the Penal Code, a felony punishable by imprisonment in

1 state prison, or any felony listed in paragraph (2) or (3) other than  
2 domestic violence, and the magistrate makes a finding of probable  
3 cause as to that charge pursuant to Section 872 of the Penal Code.

4 (6) The individual has been convicted of a federal crime that  
5 meets the definition of an aggravated felony as set forth in  
6 subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection  
7 (a) of Section 101 of the federal Immigration and Nationality Act  
8 (8 U.S.C. Sec. 1101), or is identified by the United States  
9 Department of Homeland Security's Immigration and Customs  
10 Enforcement as the subject of an outstanding federal felony arrest  
11 warrant.

12 ~~(b) If none of the conditions listed in subdivision (a) is satisfied,~~  
13 ~~an individual shall not be detained on the basis of an immigration~~  
14 ~~hold after the individual becomes eligible for release from custody.~~

15 *(b) A local agency that violates subdivision (a) shall pay a fine*  
16 *of one hundred thousand dollars (\$100,000), to be collected by*  
17 *the Attorney General, for each failure to detain an individual in*  
18 *violation of subdivision (a). The Attorney General may commence*  
19 *a civil action to enforce the fine. Proceeds of the fine shall be*  
20 *deposited in the Restitution Fund in the State Treasury for purposes*  
21 *of Chapter 5 (commencing with Section 13950) of Part 4 of*  
22 *Division 3 of Title 2.*

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.*

28 ~~SECTION 1. Section 14215 of the Elections Code is amended~~  
29 ~~to read:~~

30 ~~14215. (a) Before receiving any ballots, the precinct board, in~~  
31 ~~the presence of any persons assembled at the polling place, shall~~  
32 ~~open and exhibit and close the ballot container or containers.~~  
33 ~~Thereafter, except as specified in subdivision (b), the ballot~~  
34 ~~container or containers shall not be removed from the polling place~~  
35 ~~or presence of the bystanders until all the ballots are counted, nor~~  
36 ~~opened until after the polls are finally closed.~~

37 ~~(b) (1) The precinct board may remove the ballot container or~~  
38 ~~containers from the polling place while the polls remain open only~~  
39 ~~to facilitate the early delivery of ballots to the receiving centers or~~  
40 ~~central counting places. The Secretary of State shall adopt~~

1 ~~regulations for the secure delivery and transfer of the ballots to~~  
2 ~~the receiving center or central counting place.~~

3 ~~(2) This subdivision applies only to a county of a geographic~~  
4 ~~area of at least 2,500 square miles.~~

5 ~~(3) A local agency that exercises the authority set forth in~~  
6 ~~paragraph (1) shall not seek reimbursement from the state for~~  
7 ~~associated costs pursuant to Part 7 (commencing with Section~~  
8 ~~17500) of Division 4 of Title 2 of the Government Code.~~

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