

AMENDED IN SENATE MARCH 23, 2009

SENATE BILL

No. 125

Introduced by Senator Benoit

(Coauthors: Senators Cox, Harman, Huff, and Runner)

*(Coauthors: Assembly Members Tom Berryhill, DeVore, Galgiani,
Harkey, Jeffries, Knight, Logue, Niello, Silva, and Smyth)*

February 4, 2009

An act to add Section 5028.5 to the Penal Code, relating to undocumented criminal aliens.

LEGISLATIVE COUNSEL'S DIGEST

SB 125, as amended, Benoit. Undocumented criminal aliens: costs of incarceration: collection of data.

Existing federal law requires the federal government to compensate a state for the costs of incarcerating undocumented criminal illegal aliens, or to take the undocumented criminal alien into federal custody, as specified.

This bill would require the Secretary of the Department of Corrections and Rehabilitation to annually bill the federal government for the costs of incarcerating undocumented criminal aliens *within California's correctional system*. The bill would require the Attorney General to utilize all available legal resources to obtain ~~reimbursement~~ *compliance with payment of the written bill* if the federal government fails to make payment.

This bill would also require the Department of Justice to collect data on the total number of, and percentage of, undocumented alien inmates in all state and local correctional institutions in the state and to publish the data on its Internet Web site. The data would be required to be annually updated and published.

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. Section 5028.5 is added to the Penal Code, to
2 read:
3 5028.5. (a) (1) The Secretary of the Department of Corrections
4 and Rehabilitation shall annually bill the federal government, in
5 writing, for the full cost of incarcerating any undocumented
6 criminal alien incarcerated within California's correctional system.
7 (2) ~~In the event that~~ If the federal government does not make
8 the payment demanded in paragraph (1), the Attorney General
9 shall utilize all available legal resources to obtain compliance with
10 payment of the written bill.
11 (b) The Department of Justice shall collect data on the total
12 number of, and percentage of, undocumented alien inmates in all
13 state and local correctional institutions in the state and publish this
14 data on the Internet Web site of the department. This data shall be
15 initially collected and published on or before July 1, 2011, and
16 thereafter updated and published annually on or before July 1 of
17 each year.