

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JUNE 8, 2011

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
(Coauthors: Assembly Members Bonilla, Cedillo, Eng, Monning,
and Skinner)
~~(Coauthor: Senator~~ *Coauthors: Senators Calderon, Hancock, and 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. *This bill would state that nothing in this bill is intended to modify the bureau's existing, established procedures for submitting or exchanging criminal justice information data with the Federal Bureau of Investigation.*

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) *Illinois, Massachusetts, New York, Washington,*
- 4 *Pennsylvania, and Washington, D.C. have all refused to enter into,*
- 5 *suspended, or terminated* a memorandum of agreement with the
- 6 United States Department of Homeland Security regarding the
- 7 Immigration and Customs Enforcement's Secure Communities
- 8 program because the program undermines community policing,
- 9 public safety, and protections against racial profiling. Pursuant to
- 10 the program, federal officials have claimed the authority to use
- 11 state and local law enforcement resources for the purpose of
- 12 channeling individuals into federal civil immigration enforcement
- 13 based on minimal contact with law enforcement.
- 14 (2) Immigrant residents who are victims or witnesses to crime,
- 15 including domestic violence related crimes, are less likely to report
- 16 the crime or cooperate with law enforcement because any contact
- 17 with law enforcement could result in deportation, without regard
- 18 to whether the arrest or the result of a mistake, or merely a routine
- 19 practice of questioning individuals involved in a dispute without
- 20 pressing charges. Victims or witnesses to crimes may have recourse

1 to lawful status (such as U-visas or T-visas) that detention resulting
2 from Secure Communities obstructs.

3 (b) It is the intent of the Legislature that the Bureau of Criminal
4 Identification and Information within the Department of Justice
5 modify the memorandum of agreement with the United States
6 Department of Homeland Security, regarding the implementation
7 of the Immigration and Customs Enforcement's Secure
8 Communities program it entered into on April 10, 2009, as
9 specified in this act, thereby paying respect to the wishes of several
10 local jurisdictions that have actively worked for decades to build
11 community trust in law enforcement and have expressed concern
12 that the Secure Communities program has been deployed without
13 adequate notice and without their consultation or consent.

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

16
17 CHAPTER 17.1. FEDERAL IMMIGRATION POLICY ENFORCEMENT
18

19 7282. (a) The Bureau of Criminal Identification and
20 Information within the Department of Justice shall modify the
21 memorandum of agreement with the United States Department of
22 Homeland Security, which shall be referred to as the modified
23 agreement, regarding the implementation of the Immigration and
24 Customs Enforcement's Secure Communities program in
25 accordance with all of the following requirements:

26 (1) The modified agreement shall authorize a county to
27 participate in the Secure Communities program only upon the
28 legislative body of the county submitting an authorized written
29 request to Immigration and Customs Enforcement's Secure
30 Communities program executive director.

31 (2) The modified agreement shall require a county that opts to
32 participate in the program, as provided in paragraph (1), to prepare
33 a plan to monitor and guard against racial profiling, discouraging
34 reporting by domestic violence victims, and harming community
35 policing overall. This plan shall be deemed a public record for
36 purposes of the California Public Records Act (Chapter 3.5
37 (commencing with Section 6250) of Division 7 of Title 1 of the
38 Government Code).

39 (3) The modified agreement shall include all of the following
40 limitations to the Secure Communities program:

1 (A) Protections for crime victims, including, but not limited to,
2 domestic violence victims.

3 (B) Protections for juveniles.

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

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

9 (A) A prohibition against obtaining fingerprints for the purposes
10 of the Secure Communities program through the use of
11 checkpoints, and the stopping of individuals solely based on
12 perceived immigration status.

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

17 (5) The modified agreement shall include a requirement that
18 Immigration and Customs Enforcement make available to the
19 public on its Internet Web site quarterly statistics on the Secure
20 Communities program in this state that include the following metric
21 criteria:

22 (A) Number of searches to IDENT.

23 (B) Number of matches to IDENT data.

24 (C) Number of detainers issued by Immigration and Customs
25 Enforcement based on Level 1, Level 2, and Level 3 offense
26 categories.

27 (D) Number of detainers issued by Immigration and Customs
28 Enforcement where charges are never filed, are later dismissed,
29 or where there is ultimately no conviction.

30 (E) Number of Level 1, Level 2, and Level 3 arrestees who are
31 transferred into Immigration and Customs Enforcement custody
32 after being subjected to an Immigration and Customs Enforcement
33 detainer, where charges are never filed, are later dismissed, or
34 where there is ultimately no conviction.

35 (F) Number of identified detainees prosecuted criminally in
36 federal and state court.

37 (G) Number of identified detainees removed from the United
38 States.

1 (H) Number of identified United States citizens and persons
2 with lawful status identified through the Secure Communities
3 program.

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

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

9 *(c) Nothing in this section is intended to modify the bureau's*
10 *existing, established procedures for submitting or exchanging*
11 *criminal justice information data with the Federal Bureau of*
12 *Investigation.*