

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 7542

BILL NUMBER: SB 428

NOTE PREPARED: Jan 17, 2025

BILL AMENDED:

SUBJECT: Immigration Matters.

FIRST AUTHOR: Sen. Koch

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill clarifies that the enforcement of federal immigration laws may be carried out by federal, state, or local law enforcement. It removes the mens rea standard in the statute concerning governmental entities or postsecondary institutions violating the citizenship and immigration status information and enforcement of federal laws.

The bill provides that a governmental body that has the custody of an individual who is the subject of an immigration detainer request shall:

- (1) provide the judge authorized to grant or deny the individual's release on bail notice that the individual is subject to an immigration detainer request;
- (2) record in the individual's case file that the individual is subject to an immigration detainer request;
- (3) comply with the immigration detainer request; and
- (4) inform the individual that the individual is being held pursuant to an immigration detainer request.

The bill provides immunity to a governmental body or an employee of a governmental body for any action taken concerning an immigration detainer request.

The bill provides that if the Attorney General (AG) determines that probable cause exists that a governmental entity has not complied with an immigration detention request, the AG may:

- (1) issue a cease and desist order;
- (2) bring a court action to enjoin an action or practice constituting a violation of an immigration detention request or compel compliance with the immigration detention request; and
- (3) impose a civil penalty for noncompliance with an immigration detention request.

The bill provides that if the AG determines a governmental body did not comply with an immigration detention order, upon the advice of the AG, the governor may order that state funding and grants be withheld from the governmental body.

The bill requires a judge, who receives notice that an individual is subject to an immigration detainer request, to ensure that the notice of the immigration detainer request is recorded in the court's record. It also requires a judge to report to the United States Immigration and Customs Enforcement Agency an individual who has been convicted in the judge's court of a felony or misdemeanor.

Effective Date: Upon passage; July 1, 2025.

Explanation of State Expenditures: *Withholding of Funds:* The Governor may withhold grant and state funds from governmental bodies that fail to comply with provisions of this bill pertaining to immigration detainer requests. Any withholding of funds will result in a decrease or delay of state expenditures and a corresponding decrease in or delay of local revenues received. The bill does not limit or specify the amounts and types of funds that could be withheld. The potential impact of this provision is significant, but actual impact will depend on decisions by the Governor. [This provision may affect expenditures from dedicated funds and federally-funded grant programs as well as from the General Fund.]

Attorney General: This bill provides that the AG may issue certain orders, conduct investigations, enforce compliance and impose civil penalties in support of the enforcement of immigration laws by federal, state or local law enforcement agencies. This is likely to result in an increase in workload for the AG's office, and the impact will vary depending on compliance with existing requirements regarding immigration enforcement. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Mens Rea: This bill provides that a court will enjoin a government body or postsecondary educational institution that attempts to limit or restrict the enforcement of immigration law. Under current law, the body or institution must do so "knowingly or intentionally." This change is likely to result in a greater number of enjoinders than under current law, but any increase is likely to be small.

Immunity Provision: The bill provides that governmental bodies and their employees may not be held criminally or civilly liable for their efforts to comply with an immigration detainer request. This immunity provision will prevent expenditures from increasing as a result of legal actions taken against a governmental body.

Explanation of State Revenues: *Civil Penalties:* Governmental bodies that fail to comply with provisions of this bill pertaining to immigration detainer requests are subject to a civil penalty of \$10,000 per violation. This money will be deposited into the General Fund. [The AG does not pay court fees, so no additional court fee revenue will be generated.]

Explanation of Local Expenditures: *Immigration Detainer Requests:* This bill requires government bodies to record, comply with and notify other entities of immigration detainer requests for people in their custody. The bill also includes additional notification requirements for courts and court officials. These requirements will increase the workload for all affected entities, but any increase should be able to be met within existing resources. Failure to comply with these provisions may result in the imposition of a civil penalty of \$10,000 per violation.

Immunity Provision: See *Explanation of State Expenditures*.

Explanation of Local Revenues: *Withholding of Funds: See Explanation of State Expenditures.*

State Agencies Affected: State educational institutions; Attorney General; state governmental bodies.

Local Agencies Affected: Trial courts, city and town courts; law enforcement agencies; local governmental bodies.

Information Sources:

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