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THIRD REPRINT

A.B. 376

ASSEMBLY BILL NO. 376—ASSEMBLYMEN TORRES, ASSEFA, NEAL,
FLORES, FUMO; CARRILLO, DALY, DURAN, MARTINEZ,
NGUYEN AND WATTS

MARCH 20, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to persons in custody.
(BDR 14-675)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to persons in custody; requiring certain entities to report annually to the Legislature certain statistics relating to transfers of persons to the custody of federal agencies; providing that before a prisoner who is the subject of a detainer for certain immigration purposes and who is in the custody of a county or city jail or detention facility is questioned about his or her immigration status, the prisoner must be informed about the purpose of such questions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the collection and reporting to the Legislature of
2 certain statistical data concerning certain crimes, such as crimes related to prejudice
3 and crimes committed against older persons. (NRS 179A.175, 179A.450) **Section 1**
4 of this bill requires certain entities to submit reports to the Legislature relating to
5 the transfer of persons to the custody of federal agencies by that entity for the
6 purposes of immigration enforcement during the previous calendar year. **Section 1**
7 requires each report to include: (1) the total number of persons without a prior
8 conviction, except for a conviction of a misdemeanor other than a crime of
9 violence, who were transferred to the custody of a federal agency for the purposes
10 of immigration enforcement and the specific reasons for those transfers; (2) the
11 misdemeanors other than a crime of violence for which those persons were arrested or
12 convicted, including the total number of persons arrested or convicted for each
13 specific misdemeanor; (3) whether those persons had an active judicial warrant for



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14 a misdemeanor other than a crime of violence; (4) if those persons were held in
15 custody beyond the date on which they would have otherwise been released had
16 they not been held in custody for the purpose of being transferred to the custody of
17 a federal agency, the number of days they were held in custody beyond the date on
18 which they would have otherwise been released and the cost for holding them in
19 custody for those days; and (5) certain demographic information concerning those
20 persons transferred. Under **section 1**, the data acquired or reported must be used
21 only for research or statistical purposes and must not contain any information that
22 may: (1) reveal the identity of any person transferred to the custody of a federal
23 agency; or (2) concern any person not described in the section.

24 **Section 1.5** of this bill provides that before questioning a prisoner who is the
25 subject of a detainer for certain immigration purposes and who is in the custody of
26 a county or city jail or detention facility regarding his or her immigration status, the
27 person seeking to question the prisoner shall inform the prisoner of the purpose of
28 the questions regarding the immigration status of the prisoner.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 179A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *1. Within 60 days following the end of the previous calendar*
4 *year, each designated entity shall submit to the Director of the*
5 *Legislative Counsel Bureau for transmittal to the Legislature or, if*
6 *the Legislature is not in session, to the Legislative Commission, a*
7 *report relating to the transfer of persons to the custody of federal*
8 *agencies by that designated entity for the purposes of immigration*
9 *enforcement during the previous calendar year.*

10 *2. The report must include the following information:*

11 *(a) The total number of persons without a prior conviction,*
12 *except for a conviction of a misdemeanor other than a crime of*
13 *violence, who were transferred to the custody of a federal agency*
14 *for the purposes of immigration enforcement and the specific*
15 *reasons for those transfers, such as whether the transfers were*
16 *made pursuant to a program implemented pursuant to section*
17 *287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g),*
18 *a detainer issued by the United States Immigration and Customs*
19 *Enforcement of the Department of Homeland Security or a*
20 *request by a local law enforcement agency.*

21 *(b) The misdemeanors other than a crime of violence for*
22 *which those persons were:*

23 *(1) Arrested, including the total number of persons arrested*
24 *for each specific misdemeanor.*

25 *(2) Convicted, including the total number of persons*
26 *convicted for each specific misdemeanor.*



1 (c) *Whether those persons had an active judicial warrant for a*
2 *misdemeanor other than a crime of violence at the time of being*
3 *transferred.*

4 (d) *If those persons were held in custody beyond the date on*
5 *which they would have otherwise been released had they not been*
6 *held in custody for the purpose of being transferred to the custody*
7 *of a federal agency, the number of days they were held in custody*
8 *beyond the date on which they would have otherwise been released*
9 *and the cost for holding them in custody for those days.*

10 (e) *The demographic information concerning those persons*
11 *transferred, including, age, race, gender, place of birth and*
12 *primary language.*

13 3. *Data acquired or reported pursuant to this section must be*
14 *used only for research or statistical purposes and must not contain*
15 *any information that may:*

16 (a) *Reveal the identity of any person transferred to the custody*
17 *of a federal agency; or*

18 (b) *Concern any person not described in subsection 2.*

19 4. *This section shall be deemed to apply to any designated*
20 *entity, notwithstanding any agreement between a designated entity*
21 *and an agency of the federal government, any other agency or*
22 *governing body that may purport to set different rules regarding*
23 *the collection and reporting of data other than as required*
24 *pursuant to this section.*

25 5. *As used in this section:*

26 (a) *“Crime of violence” means any offense involving the use*
27 *or threatened use of force or violence against the person or*
28 *property of another.*

29 (b) *“Designated entity” includes:*

30 (1) *The sheriff’s office of a county;*

31 (2) *A metropolitan police department;*

32 (3) *A police department of an incorporated city;*

33 (4) *A county or city jail or detention facility;*

34 (5) *The Department of Corrections; and*

35 (6) *The Division of Parole and Probation of the*
36 *Department of Public Safety.*

37 **Sec. 1.5.** Chapter 211 of NRS is hereby amended by adding
38 thereto a new section to read as follows:

39 *Before questioning a prisoner who is the subject of a detainer*
40 *issued by the United States Immigration and Customs*
41 *Enforcement of the Department of Homeland Security and who is*
42 *in the custody of a county or city jail or detention facility*
43 *regarding his or her immigration status, the person seeking to*
44 *question the prisoner shall inform the prisoner of the purpose of*
45 *the questions regarding the immigration status of the prisoner.*



1 **Sec. 2.** The provisions of subsection 1 of NRS 218D.380 do
2 not apply to any provision of this act which adds or revises a
3 requirement to submit a report to the Legislature.

4 **Sec. 3.** The provisions of NRS 354.599 do not apply to any
5 additional expenses of a local government that are related to the
6 provisions of this act.

7 **Sec. 4.** This act becomes effective on January 1, 2020.

