

File No. 160972

Committee Item No. \_\_\_\_\_

Board Item No. 43

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: September 13, 2016

#### Cmte Board

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>California State Senate Bill No. 1289</u>                           |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>California State Association of Counties Letter - June 21, 2016</u> |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____  |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____  |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____  |

Prepared by: Brent Jalipa

Date: September 8, 2016

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Supporting California State Senate Bill 1289 (Lara) - Dignity, Not Detention Act]

2  
3 **Resolution supporting California State Senate Bill 1289, authored by Senator Lara, to**  
4 **prohibit private for-profit companies from operating immigration detention facilities in**  
5 **California, and to require that all detention facilities protect detainees' essential health**  
6 **and human rights.**

7  
8 WHEREAS, In California there are currently four privately run immigration detention  
9 facilities that hold well over 50% of detainees statewide, including people who are  
10 undocumented, asylum seekers, long time green card holders and others who are waiting for  
11 their immigration hearing; the remainder are held in county jail facilities contracted with United  
12 States Immigration and Customs Enforcement (ICE); and

13 WHEREAS, Private immigration detention contracts are often designed to incentivize  
14 filling the most beds at all times, regardless of the safety and impact on vulnerable  
15 communities, all while not being subject to public transparency tools such as the Freedom of  
16 Information Act (FOIA); and

17 WHEREAS, The Department of Justice on August 18, 2016, announced that they  
18 would be phasing out all use of private prisons because they do not meet the standards of  
19 public correctional facilities, including the safety levels, according to a report by the  
20 Department's Office of the Inspector General; and

21 WHEREAS, Immigration law is civil and does not afford the same protections as our  
22 criminal justice system, and there is no government-appointed counsel resulting in the vast  
23 majority of detained immigrants fighting their cases without an attorney; and

24 WHEREAS, Conditions at many immigration detention facilities nationwide including in  
25 California have been found to have substandard care ranging from physical, sexual abuse,

1 poor access to healthcare, poor access to legal counsel, overuse of solitary confinement and  
2 even death; and

3 WHEREAS, LGBTQ immigrants in detention are a particularly vulnerable population  
4 who have experienced additional abuse including being placed in solitary confinement and  
5 being placed in housing pods not in accordance to their own gender identity, resulting in  
6 cases of sexual abuse; and

7 WHEREAS, California State Senate Bill 1289 (SB 1289, the Dignity not Detention Act)  
8 was introduced in the 2016 California legislative cycle by State Senator Ricardo Lara, co-  
9 sponsored by the Immigrant Legal Resource Center and CIVIC, and has passed both the  
10 state Senate and Assembly and is now on the Governor's Desk, and if signed into law would  
11 (1) Stop the creation and renewal of certain contracts with for-profit immigration detention  
12 facilities, (2) create a law in California that all facilities follow ICE's 2011 Performance Based  
13 National Detention Standards, (3) provide additional protections for detained LGBTQ  
14 immigrants including prohibiting the use of solitary confinement simply because of being  
15 LGBTQ and ensuring that housing pods are assigned in accordance to an immigrant's own  
16 gender identity; and (4) provide enforcement mechanisms if the aforementioned protections  
17 are violated; and

18 WHEREAS, SB 1289 sends a strong message that California stands against mass  
19 incarceration of immigrants and inhumane detention conditions; now, therefore, be it

20 RESOLVED, That the San Francisco Board of Supervisors states their support for SB  
21 1289 and urges California Governor Jerry Brown to sign SB 1289 into law; and, be it

22 FURTHER RESOLVED, That a copy of this Resolution be delivered to the Offices of  
23 California Governor Jerry Brown and Senator Lara.



*California*  
LEGISLATIVE INFORMATION

**SB-1289 Law enforcement: immigration.** (2015-2016)

ENROLLED SEPTEMBER 02, 2016  
PASSED IN SENATE AUGUST 30, 2016  
PASSED IN ASSEMBLY AUGUST 23, 2016  
AMENDED IN ASSEMBLY AUGUST 19, 2016  
AMENDED IN ASSEMBLY JUNE 30, 2016  
AMENDED IN SENATE MAY 31, 2016  
AMENDED IN SENATE APRIL 11, 2016

CALIFORNIA LEGISLATURE— 2015-2016 REGULAR SESSION

**SENATE BILL**

**No. 1289**

**Introduced by Senator Lara**

**February 19, 2016**

An act to add Section 1670.9 to the Civil Code, relating to immigration.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1289, Lara. Law enforcement: immigration.

Existing law generally regulates formation and enforcement of contracts, including what constitutes an unlawful contract. Under existing law, a contract is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals.

Existing law authorizes a county board of supervisors on behalf of its sheriff, and a legislative body of a city on behalf of its chief of police, to contract to provide supplemental law enforcement services to private individuals, private entities, and private corporations in specified circumstances and subject to certain conditions.

This bill would, commencing on January 1, 2018, prohibit a city, county, or a city and county, or a local law enforcement agency from entering into or renewing a contract, or modifying a contract to extend the length of the contract, with a private corporation, contractor, or vendor to detain immigrants in civil immigration proceedings for profit.

Existing law requires the Board of State and Community Corrections to establish minimum standards for local correctional facilities, as specified.

This bill would require a city, county, or city and county, or a local law enforcement agency that chooses to enter into a contract to detain immigrants in civil immigration proceedings to detain immigrants only pursuant to a contract that requires the immigration detention facility operator to adhere to specified standards.

(e) An immigrant detainee shall not be involuntarily placed in segregated housing in an immigration detention facility because of his or her actual or perceived gender, gender identity, gender expression, or sexual orientation, as defined in Section 422.56 of the Penal Code. Transgender and gender nonconforming immigrant detainees shall be given the option to choose a housing placement consistent with their gender identity.

(f) Nothing in this section shall prohibit an immigration detention facility operator from exceeding the 2011 Operations Manual ICE Performance-Based National Detention Standards as corrected and clarified in February 2013 or ICE Directive 11065.1 (Review of the Use of Segregation for ICE Detainees).

(g) If an immigration detention facility operator, or agent of an immigration detention facility, or person acting on behalf of an immigration detention facility, violates subdivision (d) or (e), or the 2011 Operations Manual ICE Performance-Based National Detention Standards as corrected and clarified in February 2013, or ICE Directive 11065.1 (Review of Use of Segregation for ICE Detainees), the Attorney General, or any district attorney or city attorney, may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section, and the penalty shall be awarded to each individual who has been injured under this section.

(h) For purposes of this section, the following definitions shall apply:

(1) "Immigration detention facility" means a facility where immigrants are detained for civil immigration proceedings pursuant to an agreement between a city, county, or city and county, or a law enforcement agency and either of the following:

(A) The United States Department of Homeland Security or other federal agency.

(B) A private corporation, contractor, or private vendor.

(2) "Immigration detention facility operator" means an individual, firm, corporation, association, partnership, joint venture, commercial entity, municipality, commission, or political division of the State of California that operates or owns an immigration detention facility.

(3) "Segregated housing" means administrative segregation or disciplinary segregation, as defined in the 2011 Operations Manual ICE Performance-Based National Detention Standards as corrected and clarified in February 2013, or any other act resulting in an individual being segregated from the general population through prolonged physical or social isolation for hours, days, weeks, or years.

**SEC. 3.** The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.



June 21, 2016

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916.327.7500

Facsimile  
916.441.5507

The Honorable Ricardo Lara  
State Capitol, Room 5050  
Sacramento, CA 95814

**RE: SB 1289 (Lara) – Law Enforcement: Immigration  
As Amended on May 31, 2016 – OPPOSE  
Set to be hearing on June 28, 2016 – Assembly Judiciary Committee**

Dear Senator Lara:

The California State Association of Counties (CSAC) respectfully writes in opposition to your bill Senate Bill 1289, which would prohibit local law enforcement agencies and local governments from contracting with for-profit entities to detain immigrants.

CSAC opposes any legislation that would limit a county's authority to contract with a facility that detains offenders whether they are immigrants, felons, or misdemeanants. Almost half of California's county jails have some sort of capacity order limiting the number of offenders they can hold before they must be released because of overcrowding. SB 1289 ties local law enforcement's hands and increases the possibility of litigation. Currently, the City and County of San Francisco and San Francisco Sheriff Ross Mirkarimi are being sued by Kate Steinle's family in a wrongful death lawsuit, for releasing Juan Francisco Lopez-Sanchez from jail without notifying federal immigration officials. While Mr. Lopez-Sanchez was a seven-time convicted felon, there was no active warrant for him. The San Francisco Sheriff's Department released him stating that they had no "legal basis" to hold him.

While the objective of SB 1289 is to reduce the probability of individuals whose immigration status is in question from being held in custody, the bill does not accomplish this goal. Instead, SB 1289 could result in individuals being held in other states like Arizona and Texas because California would be prohibited from contracting with these types of facilities that are located in the state.

Each of these private facilities are audited and accredited by the National Commission on Correctional Health Care (NCCHC) and the American Corrections Association (ACA). In addition, these facilities and their operations are governed by multiple standards, policies and procedures including ICE Performance Based National Detention Standards, the Prison Rape Elimination Act (PREA) and California state law.

It is for these reasons CSAC must respectfully oppose SB 1289. If you have any further questions or concerns, please contact my staff Darby Kernan, Legislative Representative at 916.650.8131 or [dkernan@counties.org](mailto:dkernan@counties.org).

Sincerely,

A handwritten signature in black ink that reads "DeAnn Baker".

DeAnn Baker  
Deputy Executive Director for Legislative Affairs

cc: Honorable Ricardo Lara, California State Senate  
Members and Consultant, Assembly Judiciary Committee  
Gary Olson, Consultant, Assembly Republican Caucus

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED  
 BOARD OF SUPERVISORS  
 SAN FRANCISCO  
 2016 SEP -6 PM 4:01  
 Time stamp  
 or meeting date

*B*

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Campos, Avalos, Kim, Peskin, *Mar*

**Subject:**

Resolution Supporting California State Senate Bill 1289 - Dignity, Not Detention Act

**The text is listed below or attached:**

Please see attached resolution.

Signature of Sponsoring Supervisor: *Javi Campos*

r Clerk's Use Only:

