

AMENDED IN ASSEMBLY MARCH 22, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 937

Introduced by Assembly Members Carrillo, Kalra, and Santiago
(Principal coauthor: Assembly Member Chiu)
(Principal coauthor: ~~Senator~~ *coauthors: Senators Gonzalez and Wiener*)
(Coauthor: Assembly Member Gipson)
(*Coauthors: Assembly Members Cristina Garcia, Gipson, Robert Rivas,*
Jones-Sawyer, Lee, Ting, Holden, and Wicks)
(~~Coauthors: Senators Gonzalez, Durazo, Hueso, Newman, and Skinner~~)

February 17, 2021

An act to add Chapter 17.15 (commencing with Section 7282.7) to Division 7 of Title 1 of the Government Code, and to amend Section 13125 of, and to repeal Sections 5025 and 5026 of, the Penal Code, relating to immigration enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 937, as amended, Carrillo. Immigration enforcement.

Existing law, the California Values Act, prohibits a California law enforcement agency from providing a person's release date, or responding to a request for notification of a release date, unless that information is available to the public, and prohibits the transfer of an individual to immigration authorities, as specified, unless the person has been convicted of specified crimes or arrested for a serious or violent felony.

This bill would prohibit any state or local agency from arresting or ~~facilitating~~ *assisting with* the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose, as specified. The bill would additionally prohibit

state or local agencies or courts from using immigration status as a factor to deny or to recommend denial of ~~probation~~, *probation* or participation in any diversion, rehabilitation, *mental health program*, or placement in a ~~credit-earning programs or classes, or mental health program~~, *credit-earning program or class*, or to determine custodial classification level, ~~or to deny mandatory supervision~~ *supervision*, or to lengthen the portion of supervision served in custody. The bill would authorize a person to bring an action for equitable or declaratory relief in a court of competent jurisdiction against a state or local agency or state or local official that violates these provisions, and would make those agencies or officials liable for actual *and general* damages and reasonable attorney’s fees.

Existing law requires the Department of Corrections and Rehabilitation to implement and maintain procedures to identify inmates serving terms in state prison who are undocumented felons subject to deportation. Existing law requires the department to annually report to the Legislature the number of persons identified as undocumented aliens, as specified.

This bill would repeal those provisions.

Existing law requires all basic information stored in state or local criminal offender record information systems to be recorded in the form of specified standard data elements, including, among other things, place of birth.

This bill would no longer require that information to include place of birth.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California’s punitive carceral system unjustly and
- 4 disproportionately harms Black, Latinx, Indigenous, and Asian
- 5 and Pacific Islander American communities. In recent years, with
- 6 the passing of SB 260, SB 261, SB 1437, AB 1812, which amended
- 7 paragraph (1) of subdivision (d) of Section 1170 of the Penal Code,
- 8 and Proposition 47, the Legislature and California voters have
- 9 demonstrated a strong commitment to reforming our criminal
- 10 justice system and ending mass incarceration.

1 (b) Despite these reforms, when California’s jails and prisons
2 voluntarily and unnecessarily transfer immigrant and refugee
3 community members eligible for release from state or local custody
4 to Immigration and Customs Enforcement (ICE) for immigration
5 detention and deportation purposes, they subject these community
6 members to double punishment and further trauma. Immigrant
7 community members can be incarcerated by ICE, often for
8 prolonged periods and with no right to bail, and deported,
9 permanently banishing them from the country, from their families,
10 their homes, their livelihoods and “all that makes life worth living.”
11 *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922). The Supreme
12 Court has repeatedly acknowledged that for many people
13 deportation is a more severe penalty than any jail sentence. See,
14 e.g., *Lee v. U.S.*, 137 S.Ct. 1958, 1968 (2017); *Padilla v. Kentucky*,
15 559 U.S. 356, 364 (2010).

16 (c) Community members transferred to ICE are refugees, lawful
17 permanent residents, people who entered the United States as
18 children, parents, caretakers, essential workers, or are otherwise
19 valued California residents. California should not subject these
20 community members to a second, double punishment, and disregard
21 their record of rehabilitation, stable reentry plans, and community
22 support, purely because they are refugees or immigrants. Ending
23 ICE transfers in California is a reflection of the state’s commitment
24 to ending racial injustice and mass incarceration.

25 (d) Moreover, incarceration and ICE transfers are harmful to
26 public health. Countless studies document negative health impacts
27 of incarceration in jails, prisons, and ICE detention centers. People
28 who have been incarcerated have worse health outcomes and,
29 overall, have lower life expectancies. Given the racial inequities
30 plaguing the state’s carceral system, the significant health risks
31 posed by incarceration and transfers weigh heavily on California’s
32 Black, Latinx, and Asian and Pacific Islander American
33 communities.

34 (e) The Constitutions of the United States and the State of
35 California protect all persons present within our borders from
36 unreasonable searches and seizures, from deprivations of life,
37 liberty or property without due process of law, from being deprived
38 of equal protection under the law, including from being targeted
39 on the basis of race or ethnicity. This act embodies and protects
40 these values by ensuring that all Californians, including refugees

1 and immigrants, are not torn from their communities when they
 2 are eligible for release from state or local custody simply because
 3 they are not citizens of the United States.

4 (f) To ensure an equitable opportunity for noncarceral,
 5 rehabilitative and diversionary dispositions or custody status to all
 6 persons involved in the criminal legal system, irrespective of
 7 immigration status, it is the intent of the Legislature to abrogate
 8 case law that is inconsistent with this value, including, but not
 9 limited to, *People v. Sanchez* (1987) 190 Cal.App.3d 224; *People*
 10 *v. Cisneros* (2000) 84 Cal.App.4th 352; *People v. Espinoza* (2003)
 11 107 Cal.App.4th 1069; *People v. Arce* (2017) 11 Cal.App.5th 613.

12 (g) This act shall be known, and may be cited as, the Voiding
 13 Inequality and Seeking Inclusion for Our Immigrant Neighbors
 14 (VISION) Act.

15 SEC. 2. Chapter 17.15 (commencing with Section 7282.7) is
 16 added to Division 7 of Title 1 of the Government Code, to read:

17
 18 CHAPTER 17.15. VOIDING INEQUALITY AND SEEKING INCLUSION
 19 FOR OUR IMMIGRANT NEIGHBORS ACT

20
 21 7282.7. (a) (1) A state or local agency shall not arrest or
 22 *facilitate assist with* the arrest, confinement, detention, transfer,
 23 interrogation, or deportation of an individual for an immigration
 24 enforcement purpose in any manner including, but not limited to,
 25 by notifying another agency or subcontractor thereof regarding
 26 the release date and time of an individual, releasing or transferring
 27 an individual into the custody of another agency or subcontractor
 28 thereof, or disclosing personal information, as defined in Section
 29 1798.3 of the Civil Code, about an individual, including, but not
 30 limited to, an individual's date of birth, work address, home
 31 address, or parole or probation check in date and time to another
 32 agency or subcontractor thereof. This subdivision shall apply
 33 notwithstanding any contrary provisions in Section 7282.5,
 34 subparagraphs (C) and (D) of paragraph (1) of, or paragraph (4)
 35 of, subdivision (a) of Section 7284.6, or subdivision (b) of 7284.6.

36 (2) This subdivision does not prohibit compliance with a
 37 criminal judicial warrant.

38 (b) A state or local agency or court shall not use immigration
 39 status as a factor to deny or to recommend denial of ~~probation,~~
 40 *probation or* participation in any diversion, rehabilitation, *mental*

1 *health program, or placement in a credit-earning programs or*
2 *classes, or mental health program, credit-earning program or class,*
3 *or to determine custodial classification level, or to deny mandatory*
4 *supervision supervision, or to lengthen the portion of supervision*
5 *served in custody.*

6 (c) For the purposes of this section, all of the following
7 definitions apply:

8 (1) ~~“Arrest” includes assisting or facilitating an arrest by another~~
9 ~~agency or subcontractor.~~

10 (2)

11 (1) “Immigration enforcement” includes any and all efforts to
12 investigate, enforce, or assist in the investigation or enforcement
13 of any federal civil immigration law, and also includes any and all
14 efforts to investigate, enforce, or assist in the investigation or
15 enforcement of any federal criminal immigration law that penalizes
16 a person’s presence in, entry, or reentry to, or employment in, the
17 United States.

18 (2) “State or local agency” includes, but is not limited to, local
19 and state law enforcement agencies, parole or probation agencies,
20 the Department of Juvenile Justice, and the Department of
21 Corrections and Rehabilitation.

22 (3) “Transfer” includes custodial transfers, informal transfers
23 in which a person’s arrest is facilitated through the physical
24 hand-off of that person in a nonpublic area of the state or local
25 agency, or any coordination between the state or local agency and
26 the receiving agency about an individual’s release to effectuate an
27 arrest for immigration enforcement purposes upon or following
28 their release from the state or local agency’s custody.

29 (d) In addition to any other sanctions, penalties, or remedies
30 provided by law, a person may bring an action for equitable or
31 declaratory relief in a court of competent jurisdiction against a
32 state or local agency or state or local official that violates this
33 section. A state or local agency or official that violates this section
34 is also liable for actual *and general* damages and reasonable
35 attorney’s fees.

36 SEC. 3. Section 5025 of the Penal Code, as amended by Section
37 5 of Chapter 565 of the Statutes of 1994, is repealed.

38 SEC. 4. Section 5025 of the Penal Code, as amended by Section
39 133 of Chapter 91 of the Statutes of 1995, is repealed.

40 SEC. 5. Section 5026 of the Penal Code is repealed.

1 SEC. 6. Section 13125 of the Penal Code is amended to read:
2 13125. All basic information stored in state or local criminal
3 offender record information systems shall be recorded, when
4 applicable and available, in the form of the following standard
5 data elements:

6
7 The following personal identification data:

- 8 Name—(full name)
- 9 Aliases
- 10 Monikers
- 11 Race
- 12 Sex
- 13 Date of birth
- 14
- 15 Height
- 16 Weight
- 17 Hair color
- 18 Eye color
- 19 CII number
- 20 FBI number
- 21 Social security number
- 22 California operator’s license number
- 23 Fingerprint classification number
- 24 Henry
- 25 NCIC
- 26 Address

27 The following arrest data:

- 28 Arresting agency
- 29 Booking number
- 30 Date of arrest
- 31 Offenses charged
- 32 Statute citations
- 33 Literal descriptions
- 34 Police disposition
- 35 Released
- 36 Cited and released
- 37 Turned over to
- 38 Complaint filed

39 The following misdemeanor or infraction data or preliminary
40 hearing data:

- 1 County and court name
- 2 Date complaint filed
- 3 Original offenses charged in a complaint
- 4 or citation
- 5 Held to answer
- 6 Certified plea
- 7 Disposition
- 8 Not convicted
- 9 Dismissed
- 10 Acquitted
- 11 Court trial
- 12 Jury trial
- 13 Convicted
- 14 Plea
- 15 Court trial
- 16 Jury trial
- 17 Date of disposition
- 18 Convicted offenses
- 19 Sentence
- 20 Sentence enhancement data elements
- 21 Proceedings suspended
- 22 Reason suspended
- 23 The following superior court data:
- 24 County
- 25 Date complaint filed
- 26 Type of proceeding
- 27 Indictment
- 28 Information
- 29 Certification
- 30 Original offenses charged in indictment or
- 31 information
- 32 Disposition
- 33 Not convicted
- 34 Dismissed
- 35 Acquitted
- 36 Court trial
- 37 Jury trial
- 38 On transcript
- 39 Convicted—felony, misdemeanor
- 40 Plea

- 1 Court trial
- 2 Jury trial
- 3 On transcript
- 4 Date of disposition
- 5 Convicted offenses
- 6 Sentence
- 7 Sentence enhancement data elements
- 8 Proceedings suspended
- 9 Reason suspended
- 10 Source of reopened cases
- 11 The following corrections data:
- 12 Adult probation
- 13 County
- 14 Type of court
- 15 Court number
- 16 Offense
- 17 Date on probation
- 18 Date removed
- 19 Reason for removal
- 20 Jail (unsentenced prisoners only)
- 21 Offenses charged
- 22 Name of jail or institution
- 23 Date received
- 24 Date released
- 25 Reason for release
- 26 Bail on own recognizance
- 27 Bail
- 28 Other
- 29 Committing agency
- 30 County jail (sentenced prisoners only)
- 31 Name of jail, camp, or other
- 32 Convicted offense
- 33 Sentence
- 34 Sentence enhancement data elements
- 35 Date received
- 36 Date released
- 37 Reason for release
- 38 Committing agency
- 39 Division of Juvenile Justice
- 40 County

- 1 Type of court
- 2 Court number
- 3 Division of Juvenile Justice number
- 4 Date received
- 5 Convicted offense
- 6 Type of receipt
 - 7 Original commitment
 - 8 Parole violator
- 9 Date released
- 10 Type of release
 - 11 Custody
 - 12 Supervision
- 13 Date terminated
- 14 Department of Corrections and Rehabilitation
 - 15 County
 - 16 Type of court
 - 17 Court number
 - 18 Department of Corrections and Rehabilitation number
 - 19 Date received
 - 20 Convicted offense
 - 21 Type of receipt
 - 22 Original commitment
 - 23 Parole violator
 - 24 Date released
 - 25 Type of release
 - 26 Custody
 - 27 Supervision
 - 28 Date terminated
- 29 Mentally disordered sex offenders
 - 30 County
 - 31 Hospital number
 - 32 Date received
 - 33 Date discharged
 - 34 Recommendation
- 35

- 1
- 2 **REVISIONS:**
- 3 **Heading—Line 6.**
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