

LEGISLATIVE DIGEST

(Updated following Board of Supervisors meeting, September 24, 2013)

[Administrative Code - Due Process Ordinance for All on Civil Immigration Detainers]

Ordinance amending the Administrative Code by adding Chapter 12I to prohibit law enforcement officials from detaining individuals on the basis of an civil immigration detainer after they become eligible for release from custody, except for individuals who have a prior conviction for a violent felony within a certain period of time, are currently being charged with a violent felony, and may pose a public safety risk.

Existing Law

No City law prohibits law enforcement officials from continuing to hold an individual, after the individual becomes eligible for release, solely based on a civil immigration detainer.

Amendments to Current Law

As originally proposed, this ordinance (Chapter 12I of the Administrative Code) would prohibit local law enforcement officials from detaining an individual solely based on a civil immigration detainer after that individual becomes eligible for release from custody.

The intent of this Chapter is to address civil immigration detainer requests. Nothing in this Chapter shall be construed to apply to matters other than those relating to federal civil immigration detainees. In all other respects, local law enforcement agencies may continue to collaborate with federal authorities to protect public safety. This collaboration includes, but is not limited to, participation in joint criminal investigations.

Committee Amendments

On September 5, 2013, the Neighborhood Services and Safety Committee adopted technical amendments that clarified the intent and purpose of this Chapter.

Board Amendments

On September 24, 2013, the Board of Supervisors adopted amendments that would require local law enforcement officials to continue to detain an individual in response to a civil immigration detainer for up to 48 hours after that individual becomes eligible for release if: (1) the individual has been convicted of a Violent Felony within a specified period of time; and (2) a magistrate has determined that there is sufficient cause to believe the individual is guilty of a Violent Felony and ordered the individual to answer to the same pursuant to Penal Code section 872; and (3) the local law enforcement official considers evidence of rehabilitation and concludes the individual poses a public safety risk. If, however, the individual waives his or

her right to a preliminary hearing or the grand jury returns an indictment, the exception does not apply and the general rule, that local law enforcement officials may not detain an individual solely based on an immigration detainer after that individual becomes eligible for release from custody, will govern.