

REVISED LEGISLATIVE DIGEST

(5/24/2016, Amended in Board)

[Administrative Code - Due Process for All and Sanctuary]

Ordinance amending the Administrative Code to prohibit the use of City funds or resources to assist in the enforcement of Federal immigration law, except for individuals who have been convicted of a violent or serious felony and held to answer for a violent or serious felony and modifying reporting requirements.

Existing Law

Administrative Code Chapter 12I prohibits detaining individuals on the basis of a Federal civil immigration detainer unless that individual has been convicted of a violent felony in the seven years prior and has been held to answer for a violent felony. Chapter 12I also requires the Sheriff and Juvenile Probation Officer to provide an annual written report to the Board of Supervisors and the Mayor stating the number of detentions that were based solely on civil immigration detainers and detailing the rationale behind each of those civil immigration detainers. Administrative Code Chapter 12H prohibits the use of City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding immigration, except under certain exceptions. Law enforcement officials may identify and report adults booked for a felony and suspected of violating the civil immigration laws, and juveniles with sustained felony petitions or tried as adults and suspected of violating the civil immigration laws. In addition, Administrative Code Chapter 12H allows City officials to; (1) report adults with prior felony convictions who have been booked into county jail; (2) cooperate with Federal immigration authorities requests for information for adults with prior felony conviction; or (3) report as required by state or federal law those adults with prior felony convictions.

Amendments to Current Law

This Ordinance would amend Administrative Code Chapters 12H and 12I to prohibit the use of City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding the release status of individuals or their personal information. The Ordinance would amend Chapters 12H and 12I to limit the circumstances under which law enforcement officials may disseminate information to Federal immigration authorities. The Ordinance would permit law enforcement officials to respond to a federal immigration officer's request for notification of an individual's release from local custody only if the individual meets both of the following criteria:

- (1) The individual either:
 - (A) has been Convicted of a Violent Felony in the seven years immediately prior to the date of the notification request; or

(B) has been Convicted of a Serious Felony in the five years immediately prior to the date of the notification request; or

(C) has been Convicted of three Violent or Serious Felonies arising out of three separate incidents in the ten years immediately prior to the date of the notification request; and

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

“Violent Felony” and “Serious Felony” are defined by reference to the Penal Code.

The Ordinance also would modify the Chapter 12I reporting requirements to require a semi-annual written report that includes (a) a description of all communications received from the Federal agency charged with enforcement of the Federal immigration law, categorized by number of civil immigration detainees, notification requests, or other types of communications and (b) a description of any communications the Department made to the Federal agency charged with enforcement of the Federal immigration law, including any Department’s responses to communications received and the Department’s determination of the applicability of subsections 12I.3(d) and 12I.3(e).

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