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SENATE BILL

No. 54

Introduced by Senator De León

(Principal coauthors: Senators Atkins, Beall, Pan, Skinner, and Wiener)

(Principal coauthors: Assembly Members Bonta, Chiu, Cooper, Gomez, Levine, Reyes, and Santiago)

December 5, 2016

An act to *amend Sections 7282 and 7282.5 of, and to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of of, the Government Code, and to repeal Section 11369 of the Health and Safety Code, and to add Section 3058.10 to the Penal Code*, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify

the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things and subject to exceptions, prohibit state and local law enforcement agencies, including school police and security departments, from using ~~resources~~ *money or personnel* to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, ~~as specified.~~ *specified, and would, subject to exceptions, proscribe other activities or conduct in connection with immigration enforcement by law enforcement agencies. The bill would apply those provisions to the circumstances in which a law enforcement official has discretion to cooperate with immigration authorities.* The bill would require, by ~~April~~ *October 1, 2018*, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. The bill would ~~require~~ *require, among others*, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state ~~that~~ *that, among others*, all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would ~~require, every 6 months,~~ *require* that a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, submit a report *annually* pertaining to task force operations to the Department of Justice, as specified. The bill would require the Attorney General, by March 1, 2019, and ~~twice a year~~ *annually* thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. ~~The bill would require the Board of Parole Hearings or the Department of Corrections and Rehabilitation, as applicable, to notify United States~~

~~Immigration and Customs Enforcement of the scheduled release on parole or postrelease community supervision, or rerelease following a period of confinement pursuant to a parole revocation without a new commitment, of all persons confined to state prison serving a current term for the conviction of a violent or serious felony, or who has a prior conviction for a violent or serious felony. The bill would require law enforcement agencies to report to the department annually regarding transfers of persons to immigration authorities. The bill would require the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of limiting the availability of information for immigration enforcement, as specified. The bill would require the Department of Corrections and Rehabilitation to provide a specified written consent form in advance of any interview between a person in department custody and the United States Immigration and Customs Enforcement regarding civil immigration violations.~~

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools *and local law enforcement agencies*, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 7282 of the Government Code is amended*
- 2 *to read:*
- 3 7282. For purposes of this chapter, the following terms have
- 4 the following meanings:
- 5 (a) “Conviction” shall have the same meaning as subdivision
- 6 (d) of Section 667 of the Penal Code.

(b) “Eligible for release from custody” means that the individual may be released from custody because one of the following conditions has occurred:

(1) All criminal charges against the individual have been dropped or dismissed.

(2) The individual has been acquitted of all criminal charges filed against him or her.

(3) The individual has served all the time required for his or her sentence.

(4) The individual has posted a bond.

(5) The individual is otherwise eligible for release under state or local law, or local policy.

~~(e) “Immigration hold” means an immigration detainer issued by an authorized immigration officer, pursuant to Section 287.7 of Title 8 of the Code of Federal Regulations, that requests that the law enforcement official to maintain custody of the individual for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, and to advise the authorized immigration officer prior to the release of that individual.~~

(c) “Hold request,” “notification request,” and “transfer request” have the same meanings as provided in Section 7283. Hold, notification, and transfer requests include requests issued by the United States Immigration and Customs Enforcement or the United States Customs and Border Protection as well as any other immigration authorities.

(d) “Law enforcement official” means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

(e) “Local agency” means any city, county, city and county, special district, or other political subdivision of the state.

(f) “Serious felony” means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.

(g) “Violent felony” means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense

1 committed in another state which, if committed in California,
2 would be punishable as a violent felony as defined by subdivision
3 (c) of Section 667.5 of the Penal Code.

4 *SEC. 2. Section 7282.5 of the Government Code is amended*
5 *to read:*

6 ~~7282.5. (a) A law enforcement official shall have discretion~~
7 ~~to cooperate with federal immigration officials by detaining an~~
8 ~~individual on the basis of an immigration hold after that individual~~
9 ~~becomes eligible for release from custody only if the continued~~
10 ~~detention of the individual on the basis of the immigration hold~~
11 ~~would not violate any federal, state, or local law, or any local~~
12 ~~policy, and only under any of the following circumstances:~~

13 *7282.5. (a) A law enforcement official shall have discretion*
14 *to cooperate with immigration authorities only if doing so would*
15 *not violate any federal, state, or local law, or local policy, and*
16 *where permitted by the California Values Act (Chapter 17.25*
17 *(commencing with Section 7284)). Additionally, the specific*
18 *activities described in subparagraph (C) of paragraph (1) of*
19 *subdivision (a) of, and in paragraph (4) of subdivision (a) of,*
20 *Section 7284.6 shall only occur under the following circumstances:*

21 (1) The individual has been convicted of a serious or violent
22 felony identified in subdivision (c) of Section 1192.7 of, or
23 subdivision (c) of Section 667.5 of, the Penal Code.

24 (2) The individual has been convicted of a felony punishable
25 by imprisonment in the state prison.

26 (3) The individual has been convicted within the past five years
27 of a misdemeanor for a crime that is punishable as either a
28 misdemeanor or a felony for, or has been convicted ~~at any time~~
29 *within the last 15 years* of a felony for, any of the following
30 offenses:

31 (A) Assault, as specified in, but not limited to, Sections 217.1,
32 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5,
33 4500, and 4501 of the Penal Code.

34 (B) Battery, as specified in, but not limited to, Sections 242,
35 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and
36 4501.5 of the Penal Code.

37 (C) Use of threats, as specified in, but not limited to, Sections
38 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

39 (D) Sexual abuse, sexual exploitation, or crimes endangering
40 children, as specified in, but not limited to, Sections 266, 266a,

1 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288,
2 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal
3 Code.

4 (E) Child abuse or endangerment, as specified in, but not limited
5 to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of
6 the Penal Code.

7 (F) Burglary, robbery, theft, fraud, forgery, or embezzlement,
8 as specified in, but not limited to, Sections 211, 215, 459, 463,
9 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal
10 Code.

11 (G) Driving under the influence of alcohol or drugs, but only
12 for a conviction that is a felony.

13 (H) Obstruction of justice, as specified in, but not limited to,
14 Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

15 (I) Bribery, as specified in, but not limited to, Sections 67, 67.5,
16 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

17 (J) Escape, as specified in, but not limited to, Sections 107, 109,
18 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal
19 Code.

20 (K) Unlawful possession or use of a weapon, firearm, explosive
21 device, or weapon of mass destruction, as specified in, but not
22 limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3,
23 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2,
24 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750,
25 and 18755 of, and subdivisions (c) and (d) of Section 26100 of,
26 the Penal Code.

27 (L) Possession of an unlawful deadly weapon, under the Deadly
28 Weapons Recodification Act of 2010 (Part 6 (commencing with
29 Section 16000) of the Penal Code).

30 (M) An offense involving the felony possession, sale,
31 distribution, manufacture, or trafficking of controlled substances.

32 (N) Vandalism with prior convictions, as specified in, but not
33 limited to, Section 594.7 of the Penal Code.

34 (O) Gang-related offenses, as specified in, but not limited to,
35 Sections 186.22, 186.26, and 186.28 of the Penal Code.

36 (P) An attempt, as defined in Section 664 of, or a conspiracy,
37 as defined in Section 182 of, the Penal Code, to commit an offense
38 specified in this section.

39 (Q) A crime resulting in death, or involving the personal
40 infliction of great bodily injury, as specified in, but not limited to,

subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

(R) Possession or use of a firearm in the commission of an offense.

(S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.

(T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.

(U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.

(V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.

(W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.

(X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.

(Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.

(Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.

(AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

(AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.

(AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.

(AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.

1 (AE) A violation of subdivision (c) of Section 20001 of the
2 Vehicle Code.

3 (4) The individual is a current registrant on the California Sex
4 and Arson Registry.

5 ~~(5) The individual is arrested and taken before a magistrate on~~
6 ~~a charge involving a serious or violent felony, as identified in~~
7 ~~subdivision (c) of Section 1192.7 or subdivision (c) of Section~~
8 ~~667.5 of the Penal Code, a felony punishable by imprisonment in~~
9 ~~state prison, or any felony listed in paragraph (2) or (3) other than~~
10 ~~domestic violence, and the magistrate makes a finding of probable~~
11 ~~cause as to that charge pursuant to Section 872 of the Penal Code.~~

12 ~~(6)~~
13 (5) The individual has been convicted of a federal crime that
14 meets the definition of an aggravated felony as set forth in
15 subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection
16 (a) of Section 101 of the federal Immigration and Nationality Act
17 (8 U.S.C. Sec. 1101), or is identified by the United States
18 Department of Homeland Security's Immigration and Customs
19 Enforcement as the subject of an outstanding federal felony arrest
20 warrant.

21 ~~(b) If none of the conditions listed in subdivision (a) is satisfied,~~
22 ~~an individual shall not be detained on the basis of an immigration~~
23 ~~hold after the individual becomes eligible for release from custody.~~

24 (6) *In no case shall cooperation occur pursuant to this section*
25 *for individuals arrested, detained, or convicted of misdemeanors*
26 *that were previously felonies, or were previously crimes punishable*
27 *as either misdemeanors or felonies, prior to passage of the Safe*
28 *Neighborhoods and Schools Act of 2014 as it amended the Penal*
29 *Code.*

30 (b) *In cases in which the individual is arrested and taken before*
31 *a magistrate on a charge involving a serious or violent felony, as*
32 *identified in subdivision (c) of Section 1192.7 or subdivision (c)*
33 *of Section 667.5 of the Penal Code, respectively, or a felony that*
34 *is punishable by imprisonment in state prison, and the magistrate*
35 *makes a finding of probable cause as to that charge pursuant to*
36 *Section 872 of the Penal Code, a law enforcement official shall*
37 *additionally have discretion to cooperate with immigration officials*
38 *pursuant to subparagraph (C) of paragraph (1) of subdivision (a)*
39 *of Section 7284.6.*

1 ~~SECTION 1.~~

2 ~~SEC. 3.~~ Chapter 17.25 (commencing with Section 7284) is
3 added to Division 7 of Title 1 of the Government Code, to read:

4
5 CHAPTER 17.25. COOPERATION WITH ~~FEDERAL~~ IMMIGRATION
6 AUTHORITIES
7

8 7284. This chapter shall be known, and may be cited, as the
9 California Values Act.

10 7284.2. The Legislature finds and declares the following:

11 (a) Immigrants are valuable and essential members of the
12 California community. Almost one in three Californians is foreign
13 born and one in two children in California has at least one
14 immigrant parent.

15 (b) A relationship of trust between California's immigrant
16 community and state and local agencies is central to the public
17 safety of the people of California.

18 (c) This trust is threatened when state and local agencies are
19 entangled with federal immigration enforcement, with the result
20 that immigrant community members fear approaching police when
21 they are victims of, and witnesses to, crimes, seeking basic health
22 services, or attending school, to the detriment of public safety and
23 the well-being of all Californians.

24 (d) Entangling state and local agencies with federal immigration
25 enforcement programs diverts already limited resources and blurs
26 the lines of accountability between local, state, and federal
27 governments.

28 (e) State and local participation in federal immigration
29 enforcement programs also raises constitutional concerns, including
30 the prospect that California residents could be detained in violation
31 of the Fourth Amendment to the United States Constitution,
32 targeted on the basis of race or ethnicity in violation of the Equal
33 Protection Clause, or denied access to education based on
34 immigration status. *See Sanchez Ochoa v. Campbell, et al. (E.D.*
35 *Wash. 2017) 2017 WL 3476777; Trujillo Santoya v. United States,*
36 *et al. (W.D. Tex. 2017) 2017 WL 2896021; Moreno v. Napolitano*
37 *(N.D. Ill. 2016) 213 F. Supp. 3d 999; Morales v. Chadbourne (1st*
38 *Cir. 2015) 793 F.3d 208; Miranda-Olivares v. Clackamas County*
39 *(D. Or. 2014) 2014 WL 1414305; Galarza v. Szalczyk (3d Cir.*
40 *2014) 745 F.3d 634.*

(f) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments.

(g) *It is the intent of the Legislature that this chapter shall not be construed as providing, expanding, or ratifying any legal authority for any state or local law enforcement agency to participate in immigration enforcement.*

7284.4. For purposes of this chapter, the following terms have the following meanings:

(a) "California law enforcement agency" means a state or local law enforcement agency, including school police or security departments. *"California law enforcement agency" does not include the Department of Corrections and Rehabilitation.*

(b) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.

~~(e) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement or United States Customs and Border Protection, or any division thereof, or any other officer, employee, or person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with immigration enforcement.~~

(c) *"Immigration authority" means any federal, state, or local officer, employee, or person performing immigration enforcement functions.*

(d) "Health facility" includes health facilities as defined in Section 1250 of the Health and Safety Code, clinics as defined in Sections 1200 and 1200.1 of the Health and Safety Code, and substance abuse treatment facilities.

(e) "Hold request," "notification request," "transfer request," and "local law enforcement agency" have the same meaning as provided in Section 7283. Hold, notification, and transfer requests include requests issued by United States Immigration and Customs Enforcement or United States Customs and Border Protection as well as any other federal immigration authorities.

(f) "Immigration enforcement" includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement

1 of any federal civil immigration law, and also includes any and all
2 efforts to investigate, enforce, or assist in the investigation or
3 enforcement of any federal criminal immigration law that penalizes
4 a person's presence in, entry, or reentry to, or employment in, the
5 United States. "Immigration enforcement" does not include either
6 of the following:

7 (1) ~~Efforts to investigate, enforce, or assist in the investigation~~
8 ~~or enforcement of a violation of Section 1326(a) of Title 8 of the~~
9 ~~United States Code that may be subject to the enhancement~~
10 ~~specified in Section 1326(b)(2) of Title 8 of the United States Code~~
11 ~~and that is detected during an unrelated law enforcement activity.~~

12 (2) ~~Transferring an individual to federal immigration authorities~~
13 ~~for a violation of Section 1326(a) of Title 8 of the United States~~
14 ~~Code that is subject to the enhancement specified in Section~~
15 ~~1326(b)(2) of that title if the individual has been previously~~
16 ~~convicted of a violent felony listed in subdivision (c) of Section~~
17 ~~667.5 of the Penal Code.~~

18 (g) "Joint law enforcement task force" means at least one
19 California law enforcement agency collaborating, engaging, or
20 partnering with at least one federal law enforcement agency in
21 investigating federal or state crimes.

22 (h) "Judicial probable cause determination" means a
23 determination made by a federal judge or federal magistrate judge
24 that probable cause exists that an individual has violated federal
25 criminal immigration law and that authorizes a law enforcement
26 officer to arrest and take into custody the individual.

27 (i) "Judicial warrant" means a warrant based on probable cause
28 for a violation of federal criminal immigration law and issued by
29 a federal judge or a federal magistrate judge that authorizes a law
30 enforcement officer to arrest and take into custody the person who
31 is the subject of the warrant.

32 (j) "Public schools" means all public elementary and secondary
33 schools under the jurisdiction of local governing boards or a charter
34 school board, the California State University, and the California
35 Community Colleges.

36 (k) "School police and security departments" includes police
37 and security departments of the California State University, the
38 California Community Colleges, charter schools, county offices
39 of education, schools, and school districts.

1 7284.6. (a) California law enforcement agencies shall ~~not do~~
2 ~~any of the following:~~ *not:*

3 (1) ~~Use agency or department moneys, facilities, property,~~
4 ~~equipment, moneys or personnel to investigate, interrogate, detain,~~
5 ~~detect, or arrest persons for immigration enforcement purposes,~~
6 ~~including, but not limited to, including any of the following:~~

7 (A) Inquiring into an individual's immigration status.

8 (B) Detaining an individual on the basis of a hold request.

9 (C) ~~Responding~~ *Providing information regarding a person's*
10 *release date or responding to requests for notification by providing*
11 *release dates or other information unless that information is*
12 *available to the public, public, or is in response to a notification*
13 *request from immigration authorities in accordance with Section*
14 *7282.5. Responses are never required, but are permitted under*
15 *this subdivision, provided that they do not violate any local law*
16 *or policy.*

17 (D) ~~Providing information regarding a person's release date~~
18 ~~unless that information is available to the public.~~

19 (E)

20 (D) ~~Providing personal information~~ *information, as defined in*
21 *Section 1798.3 of the Civil Code, about an individual, including,*
22 *but not limited to, the individual's home address or work address*
23 *unless that information is available to the public.*

24 (F) ~~Making, assisting, or~~

25 (E) *Making or intentionally* participating in arrests based on
26 civil immigration warrants.

27 (G) ~~Giving federal immigration authorities access to interview~~
28 ~~an individual in agency or department custody, except pursuant to~~
29 ~~a judicial warrant, and in accordance with Section 7283.1.~~

30 (H)

31 (F) ~~Assisting federal~~ immigration authorities in the activities
32 described in Section 1357(a)(3) of Title 8 of the United States
33 Code.

34 (I)

35 (G) Performing the functions of an immigration officer, whether
36 pursuant to Section 1357(g) of Title 8 of the United States Code
37 or any other law, regulation, or policy, whether formal or informal.

38 (2) ~~Make agency or department databases, including databases~~
39 ~~maintained for the agency or department by private vendors, or~~
40 ~~the information therein other than information within those~~

1 ~~databases regarding an individual's citizenship or immigration~~
2 ~~status, available to anyone or any entity for the purpose of~~
3 ~~immigration enforcement. Any agreements in effect on January~~
4 ~~1, 2018, that conflict with the terms of this paragraph are~~
5 ~~terminated on that date. All persons and entities provided access~~
6 ~~to agency or department databases shall certify in writing that the~~
7 ~~database will be kept confidential and will not be used for the~~
8 ~~purposes prohibited by this section.~~

9 (3)

10 (2) Place peace officers under the supervision of federal agencies
11 or employ peace officers deputized as special federal officers or
12 special federal ~~deputies except to the extent those deputies for~~
13 ~~purposes of immigration enforcement.~~ All peace officers remain
14 subject to California law governing conduct of peace officers and
15 the policies of the employing agency.

16 (4)

17 (3) Use federal immigration authorities as interpreters for law
18 enforcement matters relating to individuals in agency or department
19 custody.

20 (5)

21 (4) Transfer an individual to federal immigration authorities
22 unless authorized by a judicial warrant or judicial probable cause
23 determination, or for a violation of Section 1326(a) of Title 8 of
24 the United States Code that is subject to the enhancement specified
25 in Section 1326(b)(2) of Title 8 of the United States Code and the
26 individual has been previously convicted of a violent felony listed
27 in subdivision (c) of Section 667.5 of the Penal Code. in
28 accordance with Section 7282.5.

29 (5) Provide office space exclusively dedicated for immigration
30 authorities for use within a city or county law enforcement facility.

31 (6) Contract with the federal government for use of California
32 law enforcement agency facilities to house individuals as federal
33 detainees, except pursuant to Chapter 17.8 (commencing with
34 Section 7310).

35 (b) Notwithstanding the limitations in subdivision (a), this
36 section does not prevent any California law enforcement agency
37 from doing any of the following that does not violate any policy
38 of the law enforcement agency or any local law or policy of the
39 jurisdiction in which the agency is operating:

1 *(1) Investigating, enforcing, or detaining upon reasonable*
2 *suspicion of, or arresting for a violation of, Section 1326(a) of*
3 *Title 8 of the United States Code that may be subject to the*
4 *enhancement specified in Section 1326(b)(2) of Title 8 of the United*
5 *States Code and that is detected during an unrelated law*
6 *enforcement activity. Transfers to immigration authorities are*
7 *permitted under this subsection only in accordance with paragraph*
8 *(4) of subdivision (a).*

9 ~~(1)~~

10 (2) Responding to a request from federal immigration authorities
11 for information about a specific person's criminal history, including
12 previous criminal arrests, convictions, ~~and~~ or similar criminal
13 history information accessed through the California Law
14 Enforcement Telecommunications System (CLETS), where
15 otherwise permitted by state law.

16 ~~(2) Participating in a joint law enforcement task force, so long~~
17 ~~as the primary purpose of the joint law enforcement task force is~~
18 ~~not immigration enforcement, as defined in subdivision (f) of~~
19 ~~Section 7284.4.~~

20 (3) *Conducting enforcement or investigative duties associated*
21 *with a joint law enforcement task force, including the sharing of*
22 *confidential information with other law enforcement agencies for*
23 *purposes of task force investigations, so long as the following*
24 *conditions are met:*

25 (A) *The primary purpose of the joint law enforcement task force*
26 *is not immigration enforcement, as defined in subdivision (f) of*
27 *Section 7284.4.*

28 (B) *The enforcement or investigative duties are primarily related*
29 *to a violation of state or federal law unrelated to immigration*
30 *enforcement.*

31 (C) *Participation in the task force by a California law*
32 *enforcement agency does not violate any local law or policy to*
33 *which it is otherwise subject.*

34 ~~(3)~~

35 (4) Making inquiries into information necessary to certify an
36 individual who has been identified as a potential crime or
37 trafficking victim for a T or U Visa pursuant to Section
38 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States
39 Code or to comply with Section 922(d)(5) of Title 18 of the United
40 States Code.

1 ~~(4) Responding to a notification request from federal~~
2 ~~immigration authorities for a person who is serving a term for the~~
3 ~~conviction of a misdemeanor or felony offense and has a current~~
4 ~~or prior conviction for a violent felony listed in subdivision (c) of~~
5 ~~Section 667.5 of the Penal Code or a serious felony listed in~~
6 ~~subdivision (c) of Section 1192.7 of the Penal Code.~~

7 (5) *Giving immigration authorities access to interview an*
8 *individual in agency or department custody. All interview access*
9 *shall comply with requirements of the TRUTH Act (Chapter 17.2*
10 *(commencing with Section 7283)).*

11 (c) (1) If a California law enforcement agency chooses to
12 participate in a joint law enforcement task force, *for which a*
13 *California law enforcement agency has agreed to dedicate*
14 *personnel or resources on an ongoing basis,* it shall submit a report
15 ~~every six months annually~~ to the Department of Justice, as
16 specified by the Attorney General. ~~The report shall detail for each~~
17 ~~task force operation, the purpose of the task force, the federal,~~
18 ~~state, and local law enforcement agencies involved, the number~~
19 ~~of California law enforcement agency personnel involved, a~~
20 ~~description of arrests made for any federal and state crimes, and~~
21 ~~a description of the number of people arrested for immigration~~
22 ~~enforcement purposes. All~~ *The law enforcement agency shall report*
23 ~~the following information, if known , for each task force of which~~
24 ~~it is a member:~~

25 (A) *The purpose of the task force.*

26 (B) *The federal, state, and local law enforcement agencies*
27 *involved.*

28 (C) *The total number of arrests made during the reporting*
29 *period.*

30 (D) *The number of people arrested for immigration enforcement*
31 *purposes.*

32 (2) *All law enforcement agencies shall report annually to the*
33 ~~Department of Justice, in a manner specified by the Attorney~~
34 ~~General, the number of transfers pursuant to paragraph (4) of~~
35 ~~subdivision (a), and the offense that allowed for the transfer,~~
36 ~~pursuant to paragraph (4) of subdivision (a).~~

37 (3) *All records described in this subdivision shall be public*
38 ~~records for purposes of the California Public Records Act (Chapter~~
39 ~~3.5 (commencing with Section 6250)), including the exemptions~~
40 ~~provided by that act and, as permitted under that act, personal~~

1 identifying information may be redacted prior to public disclosure.
2 *To the extent that disclosure of a particular item of information*
3 *would endanger the safety of a person involved in an investigation,*
4 *or would endanger the successful completion of the investigation*
5 *or a related investigation, that information shall not be disclosed.*

6 (4) *If more than one California law enforcement agency is*
7 *participating in a joint task force that meets the reporting*
8 *requirement pursuant to this section, the joint task force shall*
9 *designate a local or state agency responsible for completing the*
10 *reporting requirement.*

11 (d) The Attorney General, by March 1, 2019, and twice a year
12 annually thereafter, shall report on the types and frequency of joint
13 law enforcement task forces. The report shall include, for the
14 reporting period, assessments on compliance with paragraph (2)
15 of subdivision (b), a list of all California law enforcement agencies
16 that participate in joint law enforcement task forces, a list of joint
17 law enforcement task forces operating in the state and their
18 purposes, the number of arrests made associated with joint law
19 enforcement task forces for the violation of federal or state crimes,
20 and the the total number of arrests made associated with by joint
21 law enforcement task forces forces, and the total number of arrests
22 made for the purpose of immigration enforcement by all task force
23 participants, including federal law enforcement agencies. To the
24 extent that disclosure of a particular item of information would
25 endanger the safety of a person involved in an investigation, or
26 would endanger the successful completion of the investigation or
27 a related investigation, that information shall not be included in
28 the Attorney General's report. The Attorney General shall post the
29 reports required by this subdivision on the Attorney General's
30 Internet Web site.

31 (e) ~~Notwithstanding any other law, a California law enforcement~~
32 ~~agency shall not transfer an individual to federal immigration~~
33 ~~authorities for purposes of immigration enforcement or detain an~~
34 ~~individual at the request of federal immigration authorities for~~
35 ~~purposes of immigration enforcement absent a judicial warrant or~~
36 ~~judicial probable cause determination, except as provided in~~
37 ~~paragraph (5) of subdivision (a). This subdivision does not limit~~
38 ~~the scope of subdivision (a).~~

39 (f)

1 (e) This section does not prohibit or restrict any government
2 entity or official from sending to, or receiving from, federal
3 immigration authorities, information regarding the citizenship or
4 immigration status, lawful or unlawful, of an ~~individual~~ individual,
5 or from requesting from federal immigration authorities
6 immigration status information, lawful or unlawful, of any
7 individual, or maintaining or exchanging that information with
8 any other federal, state, or local government entity, pursuant to
9 Sections 1373 and 1644 of Title 8 of the United States Code.

10 (f) Nothing in this section shall prohibit a California law
11 enforcement agency from asserting its own jurisdiction over
12 criminal law enforcement matters.

13 7284.8. (a) The Attorney General, by ~~April 1~~, October 1, 2018,
14 in consultation with the appropriate stakeholders, shall publish
15 model policies limiting assistance with immigration enforcement
16 to the fullest extent possible consistent with federal and state law
17 at public schools, public libraries, health facilities operated by the
18 state or a political subdivision of the state, courthouses, Division
19 of Labor Standards Enforcement facilities, *the Agricultural Labor*
20 *Relations Board, the Division of Workers Compensation,* and
21 shelters, and ensuring that they remain safe and accessible to all
22 California residents, regardless of immigration status. All public
23 schools, health facilities operated by the state or a political
24 subdivision of the state, and courthouses shall implement the model
25 policy, or an equivalent policy. ~~At~~ *The Agricultural Labor*
26 *Relations Board, the Division of Workers' Compensation, the*
27 *Division of Labor Standards Enforcement, shelters, libraries, and*
28 *all other organizations and entities that provide services related to*
29 *physical or mental health and wellness, education, or access to*
30 *justice, including the University of California, are encouraged to*
31 *adopt the model policy.*

32 (b) *For any databases operated by state and local law*
33 *enforcement agencies, including databases maintained for the*
34 *agency by private vendors, the Attorney General shall, by October*
35 *1, 2018, in consultation with appropriate stakeholders, publish*
36 *guidance, audit criteria, and training recommendations aimed at*
37 *ensuring that those databases are governed in a manner that limits*
38 *the availability of information therein to the fullest extent*
39 *practicable and consistent with federal and state law, to anyone*
40 *or any entity for the purpose of immigration enforcement. All state*

1 *and local law enforcement agencies are encouraged to adopt*
2 *necessary changes to database governance policies consistent with*
3 *that guidance.*

4 *(c) Notwithstanding the rulemaking provisions of the*
5 *Administrative Procedure Act (Chapter 3.5 (commencing with*
6 *Section 11340) of Part 1 of Division 3 of Title 2), the Department*
7 *of Justice may implement, interpret, or make specific this chapter*
8 *without taking any regulatory action.*

9 7284.10. (a) *The Department of Corrections and Rehabilitation*
10 *shall:*

11 *(1) In advance of any interview between the United States*
12 *Immigration and Customs Enforcement (ICE) and an individual*
13 *in department custody regarding civil immigration violations,*
14 *provide the individual with a written consent form that explains*
15 *the purpose of the interview, that the interview is voluntary, and*
16 *that he or she may decline to be interviewed or may choose to be*
17 *interviewed only with his or her attorney present. The written*
18 *consent form shall be available in English, Spanish, Chinese,*
19 *Tagalog, Vietnamese, and Korean.*

20 *(2) Upon receiving any ICE hold, notification, or transfer*
21 *request, provide a copy of the request to the individual and inform*
22 *him or her whether the department intends to comply with the*
23 *request.*

24 *(b) The Department of Corrections and Rehabilitation shall*
25 *not:*

26 *(1) Restrict access to any in-prison educational or rehabilitative*
27 *programming, or credit-earning opportunity on the sole basis of*
28 *citizenship or immigration status, including, but not limited to,*
29 *whether the person is in removal proceedings, or immigration*
30 *authorities have issued a hold request, transfer request, notification*
31 *request, or civil immigration warrant against the individual.*

32 *(2) Consider citizenship and immigration status as a factor in*
33 *determining a person's custodial classification level, including,*
34 *but not limited to, whether the person is in removal proceedings,*
35 *or whether immigration authorities have issued a hold request,*
36 *transfer request, notification request, or civil immigration warrant*
37 *against the individual.*

38 ~~7284.10.~~

39 7284.12. *The provisions of this act are severable. If any*
40 *provision of this act or its application is held invalid, that invalidity*

1 shall not affect other provisions or applications that can be given
2 effect without the invalid provision or application.

3 ~~SEC. 2.~~

4 ~~SEC. 4.~~ Section 11369 of the Health and Safety Code is
5 repealed.

6 ~~SEC. 3.~~ ~~Section 3058.10 is added to the Penal Code, to read:~~

7 ~~3058.10. (a) The Board of Parole Hearings, with respect to~~
8 ~~inmates sentenced pursuant to subdivision (b) of Section 1168, or~~
9 ~~the Department of Corrections and Rehabilitation, with respect to~~
10 ~~inmates sentenced pursuant to Section 1170, shall notify United~~
11 ~~States Immigration and Customs Enforcement of the scheduled~~
12 ~~release on parole or postrelease community supervision, or~~
13 ~~rerelease following a period of confinement pursuant to a parole~~
14 ~~revocation without a new commitment, of all persons confined to~~
15 ~~state prison serving a current term for the conviction of, or who~~
16 ~~have a prior conviction for, a violent felony listed in subdivision~~
17 ~~(e) of Section 667.5 or a serious felony listed in subdivision (e) of~~
18 ~~Section 1192.7.~~

19 ~~(b) The notification shall be made at least 60 days prior to the~~
20 ~~scheduled release date or as soon as practicable if notification~~
21 ~~cannot be provided at least 60 days prior to release. The only~~
22 ~~nonpublicly available personal information that the notification~~
23 ~~may include is the name of the person who is scheduled to be~~
24 ~~released and the scheduled date of release.~~

25 ~~SEC. 4.~~

26 ~~SEC. 5.~~ If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.