



Legislation Text

File #: 20-548, Version: 1

Conduct a public forum in accordance with the State of California's TRUTH Act; and Receive a report on qualifying interactions with U. S. Immigration and Customs Enforcement (ICE)

Published Notice Required? Yes ☒ No ☐
Public Hearing Required? Yes ☐ No ☒

DEPARTMENTAL RECOMMENDATION:

The Sheriff's Office recommends that the Board of Supervisors:

1. Conduct a public forum and receive public comment in accordance with Government Code section 7283.1(d) a.k.a. the State of California's TRUTH Act; and
2. Receive an informative report sharing data the Sheriff's Office maintains regarding qualifying interactions and communications with U. S. Immigration and Customs Enforcement (ICE).

SUMMARY:

Government Code section 7283.1(d) (TRUTH Act), requires that the Board of Supervisors hold an annual public forum if a County local law enforcement agency provided "ICE access" to an individual during the preceding year. As part of this forum, the Solano County Sheriff's Office will report on the qualifying interactions with ICE in calendar year 2019.

FINANCIAL IMPACT:

There is no cost to the County related to this public forum apart from staff time spent on compiling the data, preparing the documents, and publishing the required notices. The costs associated with preparing the agenda item are nominal and absorbed by the department's FY2020/21 Preliminary Budget.

DISCUSSION:

Immigration laws and their enforcement are under the jurisdiction of the federal government and its Immigration and Customs Enforcement Agency (ICE). Enforcement of state and local criminal laws is under the jurisdiction of state and local law enforcement. Traditionally, local law enforcement and federal immigration authorities have cooperated by sharing various types of resources. For local law enforcement, that often meant providing information about non-citizen individuals in local law enforcement custody and holding that individual for a period of time at the request of ICE after the person is ordered released on their local criminal charges ("ICE hold" or "ICE detainer") to allow ICE time to take custody of the individual, or providing ICE access to an individual in the jail for an interview.

Due to concerns expressed by public interest and citizen groups over the level of cooperation, some local governments acted to restrict the types of cooperation on immigration issues that could be allowed between local law enforcement and federal immigration authorities. Consequently, the federal government enacted laws prohibiting a state or local government from limiting communication with federal immigration authorities about the immigration or citizenship status of individuals. However, these codes do not impose any affirmative obligation for a local jurisdiction to share non-citizenship information, such as a person's custody status, home

address, or release date, with federal immigration authorities.

In 2013, California enacted the Transparency and Responsibility Using State Tools (TRUST) Act (Government Code §§ 7282 and 7282.5) to address issues regarding ICE holds. The TRUST Act attempted to balance the expense, due process concerns, and the potential liability to local jurisdictions for holding a person in custody past their release date with the desire to ensure that non-citizens convicted of felonies were removed from the United States, if appropriate. The TRUST Act prohibited local law enforcement from keeping a person in custody for an ICE hold once the individual was otherwise eligible for release unless the person had been convicted of a felony punishable by prison, was on the California Sex or Arson registry, or was the subject of a federal felony arrest warrant, among other qualifying events. If the person qualified under one of the exceptions, then local law enforcement could comply with the ICE hold request and detain the individual for up to 48 hours.

In 2016, California passed the Transparent Review of Unjust Transfers and Holds (“TRUTH”) Act (Government Code § 7283 *et seq.*). Under the TRUTH Act, local law enforcement agencies are required to provide various types of notification to an individual if ICE: 1) requests to interview that person; 2) submits a hold request to law enforcement for the individual; or 3) requests an individual’s release date. Records of “ICE access” must also be available to the public under the Public Records Act.

Additionally, starting in 2018, a local governing body is required to hold a community forum with an opportunity for public comment if the local law enforcement agency has provided “ICE access” in the previous year. During the forum, law enforcement may provide the governing body with data regarding the number and demographics of individuals affected by “ICE access”, as well as the date access was provided and whether access occurred from a hold, a transfer, a notification request, or other means. This public forum must be noticed at least 30 days in advance.

Most recently, California passed SB 54, the California Values Act (more commonly known as the “Sanctuary State” law) which became effective on January 1, 2018. It prohibits state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, or inquire into a person’s immigration status. It also amended the TRUST Act to prohibit a local law enforcement agency from complying with ICE holds with some exceptions. It also prohibits local law enforcement from providing personal information about an individual unless that information is publicly available.

In Solano County, both the Probation Department and the Sheriff’s Office searched their records, but only the Sheriff’s Office had any qualifying “ICE access” contacts in calendar year 2019. The Sheriff’s Office will present its data regarding these contacts to the Board during the public forum in compliance with Government Code section 7283.1(d).

Notice of the TRUTH Act public forum was provided to the public by publishing ads in the following Solano County newspapers at least 30 days in advance of the community forum: Benicia Herald; The Daily Republic; Dixon Tribune; The Reporter; Rio Vista Herald; Vallejo Times Herald. Notice was also provided by posting information about the forum on the County’s website and in the posted meeting agenda.

ALTERNATIVES:

The Board may choose to not conduct the TRUTH Act public forum at this time; however, this alternative is not recommended as the forum is required to be held annually by the governing board of a local agency. Should the Board choose this alternative, the public forum must be rescheduled for a future date to comply with state law.

OTHER AGENCY INVOLVEMENT:

County Counsel assisted with this item.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION