

ASSEMBLY, No. 164

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblywoman Stanfield, Assemblymen McClellan and Simonsen

SYNOPSIS

Prohibits release of illegal immigrants from correctional facilities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/5/2021)

1 **AN ACT** concerning certain inmates in correctional facilities and
2 supplementing Title 30 of the Revised Statutes.

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

7 1. a. The administrator, superintendent, warden or other person
8 responsible for the operation of a prison, jail, youth detention or
9 other correctional facility shall identify by documentary evidence
10 the nationality of every inmate incarcerated in the facility.

b. If an inmate is not a United States citizen as determined pursuant to subsection a. of this section, the administrator, superintendent, warden or other person responsible for the operation of the prison, jail, youth detention or other correctional facility shall identify by documentary evidence whether the inmate is lawfully present in the United States.

c. An administrator, superintendent, warden or other person responsible for the operation of the prison, jail, youth detention or other correctional facility who cannot determine by documentary evidence, after due diligence, whether the inmate is a United States citizen as required by subsection a. of this section or cannot determine whether the inmate is lawfully present in the United States as required by subsection b. of this act, shall deem the inmate to be unlawfully present in the United States.

d. An inmate shall not be released from incarceration if the inmate is not a United States citizen or is not lawfully present in the United States except to the custody of officials of United States Citizenship and Immigration Services.

e. An administrator, superintendent, warden or other person responsible for the operation of a prison, jail, youth detention, or other correctional facility who releases an inmate from incarceration in violation of this section shall be subject to a civil penalty as set forth by the Commissioner of Corrections.

2. The Commissioner of Corrections shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act, and which shall include a schedule of civil penalties to be imposed for a violation of the act as provided in subsection e. of section 1 of P.L. , c. (C.).

3. This act shall take effect on the first day of the fourth month after enactment and shall not apply to any release from incarceration prior to the effective date of the act.

STATEMENT

48 This bill is intended to ensure that persons who are unlawfully
49 present in the United States and have been incarcerated in prisons,

1 jails, youth detention, or other correctional facilities in this State are
2 not released back into the general population upon their release, but
3 rather are remanded solely to the custody of federal immigration
4 officials.

5 The bill requires the administrator, superintendent, warden or
6 other person responsible for the operation of a prison, jail, youth
7 detention or other correctional facility to determine the nationality
8 of every inmate incarcerated in the facility. If an inmate is not a
9 United States citizen, the facility's administrator is required to
10 determine whether the inmate is lawfully present in the United
11 States. When this cannot be determined, the inmate is to be deemed
12 not lawfully present in the United States.

13 The bill prohibits the release of an inmate if the inmate is not a
14 United States citizen or is not lawfully present in the United States
15 except to the custody of United States Citizenship and Immigration
16 Services officials.

17 Administrators, superintendents, wardens or other operators of
18 correctional facilities who violate the bill's provisions are liable to a
19 civil fine as specified by the Commissioner of Corrections.