ASSEMBLY, No. 475

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)
Assemblyman PARKER SPACE
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:
Assemblymen Wirths, McClellan and Simonsen

SYNOPSIS

Directs AG to enter into agreement with U.S. Attorney General to empower certain corrections officers to investigate immigration status of inmates.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

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

AN ACT concerning the enforcement of federal immigration and customs law by certain corrections officers and supplementing Title 30 of the Revised Statutes.

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

1. The Attorney General shall enter into a Memorandum of Understanding, as provided in Section 287(g) of the federal Immigration and Nationality Act ((8 U.S.C. s.1357(g)), with the United States Attorney General concerning the enforcement of federal immigration and customs laws by State and county corrections officers who have been specifically designated, authorized, empowered and trained for that purpose.

The memorandum shall outline the duties of those designated corrections officers. Those duties shall be limited to investigating, at the time of their incarceration, whether inmates are legal residents of the United States and, in those cases where the investigation reveals that an inmate's presence in the United States is not authorized under federal law, to report that information to United States Immigration and Customs Enforcement in the United States Department of Homeland Security.

The memorandum shall also include, but not be limited to, the training curriculum to be utilized; protocols of cooperation outlining the working relationship between the affected State, county and federal officers, offices and agencies; the amounts and payment dates of any federal moneys authorized and payable to New Jersey to defray the costs incurred in enforcing federal immigration and customs law pursuant to the memorandum; and certification that the State and county corrections officers authorized and empowered in accordance with the memorandum are acting under the color of authority under the provisions of Section 287(g) of the federal Immigration and Nationality Act (8 U.S.C. s.1357(g)) and shall be considered to be acting under color of federal authority for the purposes of determining the liability, and immunity from suit, for a civil action brought under federal or State law.

2. The Commissioner of Corrections and the administrators of each county correctional facility shall prepare a list of State and county corrections officers who have volunteered, and are approved by their employer, to be designated to enforce United States immigration and customs laws by investigating, at the time of their incarceration, whether inmates are legal residents of the United States and shall submit that list to the Attorney General. The New Jersey Attorney General shall select the officers to be so designated from that list. In selecting the county corrections officers to be designated, the New Jersey Attorney General, to the greatest extent

practical, shall seek to ensure that officers employed by each county correctional facility are selected.

The duties performed by the officers designated pursuant to this section and who are trained, authorized and empowered pursuant to memorandum entered into under the provisions of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be deemed to be within the scope of their authorized duties as State and county corrections officers and parole officers under New Jersey law.

3. This act shall take effect on the first day of the fourth month following enactment, provided, however, that the New Jersey Attorney General, Commissioner of Corrections and the administrators of each county correctional facility may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill authorizes the Attorney General to enter into a Memorandum of Understanding with the United States Attorney General, as provided under section 287(g) of the federal Immigration and Naturalization Act (8 U.S.C. s.1357(g)) to train and empower certain designated State and county corrections officers to perform limited enforcement functions and activities.

Under the provisions of the bill, the designated officers would be trained and empowered to investigate, at the time of their incarceration, whether inmates are lawful residents and, in those cases where that investigation reveals that the inmate’s presence in the United States is not authorized under federal law, to so notify United States Immigration and Customs Enforcement (ICE) in the federal Department of Homeland Security.

The terms of the memorandum are to set forth the training curriculum, protocols for the working relationship between the affected State, county and federal officers, offices and agencies; the amounts of federal assistance the State is to receive under the Homeland Security Appropriations Act for participating in the ICE 287(g) program and a certification that the participating corrections officers and parole officers are acting under color of federal authority for the purposes of determining the liability, and immunity from suit, for any civil action brought under federal or State law.