

SENATE, No. 809

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senator Oroho

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: 5/11/2021)

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

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

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

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

23 The memorandum shall also include, but not be limited to, the
24 training curriculum to be utilized; protocols of cooperation
25 outlining the working relationship between the affected State,
26 county and federal officers, offices and agencies; the amounts and
27 payment dates of any federal moneys authorized and payable to
28 New Jersey to defray the costs incurred in enforcing federal
29 immigration and customs law pursuant to the memorandum; and
30 certification that the State and county corrections officers
31 authorized and empowered in accordance with the memorandum are
32 acting under the color of authority under the provisions of Section
33 287(g) of the federal Immigration and Nationality Act (8 U.S.C.
34 s.1357(g)) and shall be considered to be acting under color of
35 federal authority for the purposes of determining the liability, and
36 immunity from suit, for a civil action brought under federal or State
37 law.

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

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

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

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

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STATEMENT

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

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

34 The terms of the memorandum are to set forth the training
35 curriculum, protocols for the working relationship between the
36 affected State, county and federal officers, offices and agencies; the
37 amounts of federal assistance the State is to receive under the
38 Homeland Security Appropriations Act for participating in the ICE
39 287(g) program and a certification that the participating corrections
40 officers and parole officers are acting under color of federal
41 authority for the purposes of determining the liability, and
42 immunity from suit, for any civil action brought under federal or
43 State law.