



Legislation Text

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Int. No. 1558-A

By The Speaker (Council Member Mark-Viverito) and Council Members Ferreras-Copeland, Levin, Kallos, Dromm, Menchaca, Chin, Gibson, Koo and Espinal

A Local Law to amend the administrative code of the city of New York, in relation to persons not to be detained by the department of probation

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-205 to read as follows:

§ 9-205 Persons not to be detained.

a. For the purposes of this section, all terms shall have the same meanings as set forth in section 9-131, except that the term “department” means department of probation.

b. The department may only honor a civil immigration detainer by holding a person if:

1. federal immigration authorities present the department with a judicial warrant for the detention of the person who is the subject of such civil immigration detainer at the time such civil immigration detainer is presented; and

2. a search of state and federal databases, or any similar or successor databases, accessed through the New York state division of criminal justice services e-JusticeNY computer application, or any similar or successor computer application maintained by the city or state of New York, indicates, or the department has been informed by a court or any other governmental entity, that such person:

(a) has been convicted of a violent or serious crime, or

(b) is identified as a possible match in the terrorist screening database.

c. No conferral of authority. Nothing in this section shall be construed to confer any authority on any entity to hold persons on civil immigration detainers beyond the authority, if any, that existed prior to the enactment of this section.

d. No conflict with existing law. This section supersedes all conflicting policies, rules, procedures and practices of the city. Nothing in this section shall be interpreted or applied so as to create any power, duty or obligation in conflict with any applicable law.

e. No private right of action. Nothing contained in this section or in the administration or application hereof shall be construed as creating any private right of action on the part of any persons or entity against the city or the department, or any official or employee thereof.

f. Reporting. No later than September 1, 2018, and no later than September 1 of each year thereafter, the department shall post a report on its website that includes the following information for the preceding 12-month period ending June 30:

1. the number of civil immigration detainers received from federal immigration authorities;

2. the number of persons held pursuant to civil immigration detainers;

3. the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainers;

4. the number of persons for whom civil immigration detainers were not honored; and

5. the number of requests from federal immigration authorities concerning a person's incarceration status, release dates, court appearance dates, scheduled appointment dates or times, or any other information related to such person, and the number of responses honoring such requests, disaggregated by:

i. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, scheduled appointment dates or times, or other types of information, and

whether the department facilitated the transfer of such persons to the custody of federal immigration authorities;

ii. the number of responses to federal immigration authorities concerning a person with at least one conviction for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, scheduled appointment dates or times, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities; and

iii. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime who were identified as a possible match in the terrorist screening database, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, scheduled appointment dates or times, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities.

g. Publication of policy required. The department shall publish on its website its policy regarding requests for information from federal immigration authorities.

§ 2. This local law takes effect immediately, provided that subdivision g of section 9-205 of the administrative code of the city of New York, as added by section one of this local law, takes effect 90 days after it becomes law, and provided further that information newly required to be reported by subdivision f of section 9-205 of the administrative code of the city of New York, as added by section one of this local law, shall be required to be reported only for periods beginning 60 days after the effective date of this local law.

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