
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 613 **Hearing Date:** April 25, 2017
Author: De León
Version: February 17, 2017
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Immigration Status*

HISTORY

Source: Author

Prior Legislation: SB 396 (De León) Ch. 318, Stats. 2014
AB 4 (Ammiano) Ch. 570, Stats. 2013

Support: California Health + Advocates; California Public Defenders Association;
Community Clinic Association of Los Angeles; National Association of Social
Workers- California Chapter; The Arc & United Cerebral Palsy California
Collaboration

Opposition: None known

PURPOSE

The purpose of this bill is to repeal the requirement for the Division of Juvenile Justice, Department of State Hospitals, and Department of Developmental Services to cooperate with the U.S. Department of Homeland Security in arranging for the deportation of individuals confined in their institutions.

Existing law establishes the Division of Juvenile Justice (DJJ), formerly the California Youth Authority, to protect society from the consequences of criminal activity and to correct and rehabilitate young persons who have committed public offenses. (Welf. & Inst. Code § 1700.)

Existing law establishes as the purpose of the Division of Juvenile Programs to provide comprehensive education, training, treatment, and rehabilitative services to youthful offenders under the jurisdiction of the department, that are designed to promote community restoration, family ties, and accountability to victims, and to produce youth who become law-abiding and productive members of society. (Welf. & Inst. Code § 1710.)

Existing law requires the Youth Authority to cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are committed to it. (Welf. & Inst. Code § 1008.)

Existing law establishes the Department of State Hospitals (DSH). (Welf. & Inst. Code § 4000.)

Existing law establishes the jurisdiction of DSH over Atascadero, Coalinga, Metropolitan, Napa, Patton and other state hospitals to provide for the treatment and care of individuals with mental disorders. (Welf. & Inst. Code § 4100, et seq.)

Existing law makes a legislative declaration that the provisions of the code governing state hospitals reflects the concern of the Legislature that persons with mental health disorders are to be regarded as patients to be provided care and treatment and not as inmates of institutions for the purposes of secluding them from the rest of the public. (Welf. & Inst. Code § 4132.)

Existing law requires DSH to cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital. (Welf. & Inst. Code § 4118.)

Existing law establishes the Department of Developmental Services (DDS). (Welf. & Inst. Code § 4400.)

Existing law establishes the jurisdiction of DDS over Fairview, Lanterman, Porterville and Sonoma state hospitals, also known as developmental centers, to provide for the care and treatment of individuals with developmental disabilities. (Welf. & Inst. Code § 4440, et seq.)

Existing law establishes as a mission of DDS to ensure and uphold the rights of persons with developmental disabilities and an obligation to ensure that laws, regulations, and policies on the rights of persons with developmental disabilities are observed and protected. (Welf. & Inst. Code § 4433.)

Existing law requires DDS to cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital. (Welf. & Inst. Code § 4458.)

This bill repeals the requirements that the Division of Juvenile Justice, Department of State Hospitals, and Department of Developmental Services cooperate with the U.S. Department of Homeland Security in arranging for the deportation of individuals who are confined in their institutions.

COMMENTS

1. Need for This Bill

According to the author:

A relationship of trust between California's immigrant residents and our state and local agencies, including police, schools, and hospitals, is essential to carrying out basic state and local functions. That trust is threatened when state and local agencies are involved in immigration enforcement. According to the President Obama's Taskforce on 21st Century Policing, "immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of

government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement.”¹

This measure will ensure that the Department of State Hospitals, Division of Juvenile Justice, and Department of Developmental Services are carrying out their duties consistent with broader state policies on immigrant integration. Rather than proactively facilitating deportation of clients they are serving, these agencies should focus on their central responsibilities—providing treatment for juveniles, the developmentally disabled and mental health patients.

2. Background

In response to President Trump’s statements that his administration would prioritize the deportation of a broad spectrum of immigrants, California Legislative leaders introduced a package of bills intended to protect the state’s residents, specifically its immigrant populations. Following the issuance of two Executive Orders² pertaining to immigration practices, Legislative leaders filed a Freedom of Information Act request on February 27, 2017 for information on how the Department of Homeland Security (DHS) was targeting immigrants.³ The request seeks records related to the policies, including enforcement priorities, of Immigration and Customs Enforcement (ICE) national and California field offices. It also seeks records regarding the planning and execution of enforcement actions.

a. Division of Juvenile Justice

The DJJ houses youths within the California Department of Corrections and Rehabilitation (CDCR) in three institutions and one forestry camp. The average daily population of all facilities was 679 in February 2017, and it has averaged between 650 and 700 in recent months. DJJ houses youths between the ages of 12 and 25. Additionally, DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 21, the DJJ may house him or her until released.

All youths at DJJ are required to attend school full-time, and those who complete their high school education may participate in a college program, vocational training, or a combination of

¹ Final Report of the President’s Taskforce on 21st Century Policing (May 2015).

[https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf]

² Exec. Order No. 13768, 82 Fed. Reg. 8799 (Jan. 25, 2017)

[<https://www.federalregister.gov/documents/2017/01/30/2017-02102/enhancing-public-safety-in-the-interior-of-the-united-states>]; Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017)

[<https://www.federalregister.gov/documents/2017/02/01/2017-02281/protecting-the-nation-from-foreign-terrorist-entry-into-the-united-states>]. Executive Order No. 13768 prioritizes the removal of removable aliens who “have been convicted of any criminal offense; have been charged with any criminal offense, where such charge has not been resolved; have committed acts that constitute a chargeable criminal offense; have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency; have abused any program related to receipt of public benefits; are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.”

³ <http://www.sfchronicle.com/file/197/8/1978-CA%20Leg%20Letter%20to%20DHS%20FOIA.pdf>

both. A portion of the earnings from a youth's job within the facility must go to pay court-ordered restitution. Youth may also be assigned to special programs, including sexual behavior treatment, substance abuse treatment, anger management, and victim's awareness activities.

b. State Hospitals

The DSH operates five state hospitals, and treats inmates at three CDCR prisons, providing inpatient mental health treatment beds within the broader CDCR mental health care system. The total capacity of DSH's eight inpatient state hospitals is approximately 7,000 beds. Patients admitted to DSH are mandated for treatment by a criminal or civil court. More than 90 percent of DSH's patients are forensic commitments. DSH also treats patients who have been classified by a judge or jury as Sexually Violent Predators.

c. Developmental Centers

A developmental disability is defined as one that originates before the age of 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability. Developmental disabilities include intellectual disability, autism spectrum disorder, cerebral palsy, epilepsy and other related conditions. (Welf. & Inst. Code § 4512.) The DDS operates three state developmental centers—Sonoma, Fairview and Porterville—and one smaller facility in Cathedral City that is often used as a step-down placement for individuals with developmental disabilities and challenging behavioral needs. Each developmental center has three levels of care: a skilled nursing facility, an intermediate care facility for individuals with intellectual disabilities (ICF/IID), and a small, acute care hospital.

Over the past several decades, the state has shifted from providing services in its institutions to providing services to individuals with developmental disabilities within their communities. As of March 29, 2017, the four state-run facilities collectively served 846 individuals with significant physical or behavioral developmental disabilities. This is a notable decrease from the total population in March 2012 of 1,749.

d. Deportation from DJJ, DSH, and DDS

According to DJJ, there were 41 aliens committed to DJJ between March 2014 and April 2017. Three had ICE detainers in their files. When a youth is scheduled to be released from DJJ and there is an ICE detainer in his or her file, DJJ notifies ICE officials, as required under existing law. It is unclear whether any of the three individuals with ICE detainers were released to ICE.

DSH does not keep detailed information on detainers placed on patients, but estimated that about 20 patients were released to immigration officials over the past five years. When a patient is scheduled to be released from a state hospital and there is an ICE detainer in his or her file, DSH notifies ICE officials, as required under existing law.

According to DDS, if a consumer at a developmental center has an ICE detainer in his or her file, the staff at the facility will comply with the order to notify DHS. The department reported that this has happened only three times in the past five years, and in each case the individual was confined to Porterville Developmental Center's forensic secure treatment program. DDS stated that it was unclear how DHS became aware of the clients and the immigration status of the clients.

3. Related Legislation

Several bills have been introduced this year to address the current presidential administration's prioritization of immigration enforcement. SB 6 (Hueso) would appropriate \$12 million from the General Fund to nonprofit legal services organizations to provide legal representation to individuals in removal proceedings who do not have representation. SB 31 (Lara) would prohibit state and local agencies from providing information to the federal government regarding a person's religious beliefs, practices, or affiliation. SB 54 (De León) would prohibit state and local law enforcement agencies, including school police and security departments, from using resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified. All three bills passed out of the Senate and are currently in the Assembly.

4. Arguments in Support

The National Association of Social Workers, California Chapter supports this bill stating:

Considering the current political climate at the federal level, California is committed to defending and protecting its inhabitants. The existing law raises questions as to why state agencies charged with caring for juveniles, mental health patients, and the developmentally disabled are to be engaging directly and proactively in immigration enforcement, which is a sole responsibility of the federal government. Existing law also requires collaboration on the arrangement of deportation for all clients, regardless of actual immigration status which is a violation of due process rights of individuals.

It is detrimental to the well-being of immigrants that may potentially access these services if the agencies choose to actively facilitate deportations because of the potential distrust such collaborations would foment. This bill would safeguard immigrants' rights to live as productive members of society, without fear of deportation initiated by these various entities.

According to the California Public Defenders Association:

SB 613 upholds California's core values of equal treatment, community, family unity, and common humanity by ensuring that California's children are not indiscriminately turned over to the United States Bureau of Immigration. Presently, Welfare and Institution Code section 1008 require the Division of Juvenile Justice (hereinafter "DJJ") to cooperate with federal immigration authorities to arrange for the deportation of all youth and children committed to DJJ. Additionally, Welfare and Institutions Code sections 4118 and 4458 respectively mandate that the Department of State Hospitals and Department of Developmental Services cooperate with the U.S. Bureau of Immigration's efforts to deport all non-citizens who are confined in, admitted, or committed to any state hospital. At this time of rising national division and scapegoating of immigrant communities, SB 613 reaffirms California's commitment to valuing and protecting its most vulnerable and marginalized residents and sends a powerful national message of California's commitment to treat all individuals with compassion and humanity. California must continue to fight the indiscriminate

mass deportation of its most vulnerable residents. The entanglement of state and local public safety resources with the dirty business of deportations threatens the civil rights and safety of all who reside in California. Such actions foster racial profiling, police mistreatment, and wrongful arrests, which further undermine trust between local communities and law enforcement.

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