

BILL ANALYSIS

| | |
|---------------------------------|------------|
| SENATE RULES COMMITTEE | AJR 57 |
| Office of Senate Floor Analyses | |
| 1020 N Street, Suite 524 | |
| (916) 445-6614 | Fax: (916) |
| 327-4478 | |

THIRD READING

Bill No: AJR 57
 Author: Diaz (D), et al
 Amended: 8/12/02 in Assembly
 Vote: 21

SENATE PUBLIC SAFETY COMMITTEE : 5-0, 8/27/02
 AYES: McPherson, Burton, Polanco, Sher, Vasconcellos

ASSEMBLY FLOOR : 44-23, 8/21/02 - See last page for vote

SUBJECT : Local Peace Officer Enforcement of Federal
 Immigration and Nationality Act

SOURCE : Author

DIGEST : This resolution states concerns of the
 Legislature about federal plans to use state and local law
 enforcement agents to enforce immigration law, as
 specified.

ANALYSIS : Existing law:

1. Provides that every law enforcement agency in California shall fully cooperative with Immigration and Naturalization Service (INS) as specified.
2. Provides that local law enforcement officers are not prohibited from cooperating with federal agents in the discharge of their duties. However, the mandatory provisions of Penal Code Section 834b relative to cooperation, verification and notification to INS with

CONTINUED

□

AJR 57
 Page

2

respect to persons arrested who are suspected of being in the United States illegally are not subject to enforcement by local law enforcement officers.

3. The State Attorney General's Office, under Daniel Lungren, held in an official opinion that California law enforcement officials may not arrest immigrants for alleged or suspected violations of federal civil immigration laws. The opinion stated that local agency arrests for civil violations of INA are deemed to intrude impermissibly on the federal preserve.
4. Provides that in accordance with federal law, as specified, every peace officer, upon arrest and booking or detention for more than two hours of a known or suspected foreign national, shall advise the foreign national that he or she has a right to communicate with an official from the consulate of his or her country, except as provided. If the foreign national chooses to exercise that right, the peace officer shall notify the pertinent official in his or her agency or department of the arrest or detention and that the foreign national wants his or her consulate notified.

This resolution does the following:

1. Makes the following legislative findings:
 - A. The United States Department of Justice (USDOJ) is considering the use of deputized state and local enforcement officers to enforce federal immigration laws
 - B. USDOJ officials have asserted that states have the authority to enforce civil immigration law
 - C. Local law enforcement provides appropriate

assistance and cooperation relative to persons in custody for state and local law violations.

- D. The proposed federal plan authorizes local and state law enforcement agents to arrest and detain immigrants for violations of immigration status requirements.

□

AJR 57
Page

3

E. The additional obligation of enforcing immigration laws would strain law enforcement resources.

F. Local law enforcement officers are not trained to enforce immigration laws.

G. Immigration enforcement has traditionally been a federal responsibility.

H. Immigrant communities fear that this new authority could lead to broader racial profiling

I. Public safety has improved because local law enforcement agencies have gained the trust of immigrant communities

J. California local law enforcement agencies have opposed the new USDOJ plan as it will adversely affect their ability to enforce state and local laws.

K. The California Police Chiefs Association has stated it does not want to be placed in a role of detaining and arresting individuals for changes in immigration status.

L. This new policy would discourage properly documented immigrants from providing important information to authorities and therefore adversely impact efforts to protect our communities from the dangers or terrorism.

2. The Legislature resolves:

A. That state and local law enforcement agencies lack the legal authority to stop, arrest, or detain persons for allegations of federal immigration laws, except where a mandated detainer is issued by the INS; and,

B. That the Chief Clerk of the Assembly send a copy of this resolution to United States Attorney

□

AJR 57
Page

4

General, John Ashcroft.

FISCAL EFFECT : Fiscal Com.: No

SUPPORT : (Verified 8/27/02)

American Civil Liberties
 Union Asian Law Alliance
 Asian Pacific American Legal Center
 California Catholic Conference
 California Immigrant Welfare Collaborative
 California Rural Legal Assistance Foundation
 Community Health Partnership
 Jose L. Saberanes, Consul General of Mexico
 Lawyers' Committee for Civil Rights of the San Francisco Bay Area
 Mexican American Legal Defense and Educational Fund
 National Council of La Raza
 National Immigration Law Center
 Services Immigrant Rights and Education Network
 Sisters of the Holy Names
 Justice and Peace Committee
 The Student Empowerment Project
 Los Angeles County Sheriff's Department

ARGUMENTS IN SUPPORT : According to the author, "[i]mmigration enforcement by local police will not make us

safer from terrorism. Eroding the rapport and trust between communities and police will, in fact, make us less safe. Police need the cooperation of the communities they serve and protect to collect information about suspicious behavior so they can prevent terrorism and other crime.

"In communities where people are afraid to talk to police, more crimes go unreported, fewer witnesses come forth, and people are less likely to report suspicious activity. Battered immigrant women are particularly vulnerable, especially if they are married to a citizen or lawful resident.

"Local law enforcement agencies have opposed the USDOJ's proposed plan to have them enforce immigration laws because it will adversely affect their ability to properly enforce state and local laws in the diverse communities they serve.

□

AJR 57

Page

5

"The California Police Chiefs Association in a April 19, 2002 letter to the USDOJ stated, 'It is the strong opinion of the California Police Chiefs Association leadership that in order for local and state law enforcement organizations to continue to be effective partners with their communities, it is imperative that they not be placed in the role of detaining and arresting individuals based solely on a change in their immigration status'."

ASSEMBLY FLOOR

AYES: Alquist, Aroner, Calderon, Cardenas, Cedillo, Chan, Chavez, Chu, Cohn, Corbett, Correa, Diaz, Dutra, Firebaugh, Florez, Frommer, Goldberg, Havice, Hertzberg, Horton, Jackson, Keeley, Kehoe, Kelley, Koretz, Liu, Longville, Lowenthal, Matthews, Migden, Nation, Negrete McLeod, Oropeza, Pavley, Reyes, Salinas, Shelley, Simitian, Steinberg, Strom-Martin, Thomson, Vargas, Washington, Wesson

NOES: Aanestad, Ashburn, Bates, Bogh, Briggs, Bill Campbell, John Campbell, Cogdill, Cox, Dickerson, Hollingsworth, La Suer, Leach, Leonard, Leslie, Maddox, Mountjoy, Pescetti, Richman, Runner, Strickland, Wyland, Zettel

RJG:kb 8/28/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****