



# HOUSE BILL 318: The Criminal Illegal Alien Enforcement Act.

2025-2026 General Assembly

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<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 5, 2025
<b>Introduced by:</b>	Reps. D. Hall, Carson Smith, B. Jones, Echevarria	<b>Prepared by:</b>	Robert Ryan* Staff Attorney
<b>Analysis of:</b>	Fourth Edition		

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## **OVERVIEW:** *House Bill 318 would do the following:*

- *Modify the list of offenses for which the administrator of a jail or confinement facility (administrator) must attempt to determine legal residency of a prisoner.*
- *Require a judicial official determining conditions of pretrial release to attempt to determine legal residency for the same offenses applicable to prisoners, and if unable to determine legal residency, commit the defendant to a facility to be fingerprinted and held for a period of 2 hours after a query to ICE.*
- *After issuance of an order from the court, hold any person with an ICE detainer and administrative warrant for 48 hours after the time the person would otherwise be released from the facility.*

## **CURRENT LAW:**

Article I, § 8, of the U.S. Constitution authorizes the federal government to regulate uniform laws related to immigration.

G.S. 162-62 directs an administrator or other person in charge of a local confinement facility to:

- Attempt to determine whether a person is a legal resident of the United States if the person is charged with certain felonies, assaultive misdemeanors, and violations of domestic violence orders.
- Send a query to Immigration and Customs Enforcement of the United States Department of Homeland Security (ICE) if the prisoner's status as a legal resident or citizen of the United States cannot be determined.

If the administrator in charge of a confinement facility receives notice that ICE has issued a detainer and administrative warrant for a person charged with a criminal offense and currently confined in that facility, the administrator is required to take the prisoner before a State judicial official before the prisoner's release.

The State judicial official is provided a copy of the detainer and administrative warrant. If the person appearing before the judicial official is determined to be the person subject to the detainer and administrative warrant, the State judicial official is required to issue an order directing the prisoner be held in custody until the earliest of the following:

- 48 hours passes from receipt of the ICE detainer and administrative warrant.
- ICE takes custody of the prisoner.

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- ICE rescinds the detainer.

## **BILL ANALYSIS:**

**Section 1** of House Bill 318 would amend G.S. 162-62 as follows:

- To amend the list of offenses for which an administrator must attempt to determine legal residency to include all felonies; Class A1 misdemeanors under Articles 6A, 7B, or 8 of Chapter 14; and offenses involving impaired driving.
- To require a person subject to a court order based on receipt of a detainer and administrative warrant to be held in custody for 48 hours after the person would have otherwise been released.
- To require the facility to notify ICE not more than 2 hours after the person would otherwise be released of the date and time the 48 hours will expire using the manner indicated on the detainer and administrative warrant.

**Section 2** would amend G.S. 15A-534 regarding conditions of pretrial release to require a judicial official determining conditions of pretrial release to attempt to determine legal residency for the same offenses applicable to prisoners, and if unable to determine legal residency, commit the defendant to a facility to be fingerprinted and held for a period of 2 hours after a query to ICE. If no detainer and administrative warrant are received within that two-hour period, the person would be released pursuant to the conditions of pretrial release. If a detainer and administrative warrant are received within that two-hour period, the person would be taken before a judicial official and processed pursuant to the provisions of G.S. 162-62(b1).

**Section 3** provides a severability clause.

**EFFECTIVE DATE:** This act would become effective October 1, 2025. Section 1 would apply to any person confined in or released from a facility on or after that date. Section 2 would apply to persons appearing before a judicial official for a determination of pretrial release conditions on or after that date.

*\*Susan Sitze, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*