



HOUSE BILL 370: Require Sheriff Cooperation with ICE.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to State and Local Government. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 27, 2019
Introduced by:	Reps. D. Hall, Jones, Saine, C. Smith	Prepared by:	Shawn Middlebrooks Staff Attorney
Analysis of:	First Edition		

OVERVIEW: *House Bill 370 would:*

- *Authorize confinement facilities to comply with immigration detainer request issued by the federal government.*
- *Restrict counties and cities from prohibiting federal law enforcement officials from entering and conducting immigration enforcement at confinement sites.*
- *Grant citizens the right to file a declaratory or injunctive relief action against a city, county, or law enforcement agency that fails to comply with State laws related to immigration.*
- *Authorize the head of a city or county law enforcement agency to adopt a policy for the purpose of educating the public in regard to immigration protections for victims and witnesses of crimes.*

CURRENT LAW AND BILL ANALYSIS:

Whenever any person is arrested for a felony or impaired driving offense, the administrator of the confinement facility shall attempt to verify the prisoner's immigration status, and, where possible, make an inquiry of Immigration and Customs Enforcement of the United States (U.S.) Department of Homeland Security if the administrator is unable to determine the prisoner's status. G.S. 162-62.

Section 1 of the bill would amend G.S. 162-62 to:

- Authorize confinement facilities to comply with immigration detainer requests issued by the federal government and inform a prisoner when they are being held pursuant to a detainer request.
- Clarify that confinement facilities are not required to comply with a detainer request if the request is for a victim or witness to a crime.
- Require a confinement facility to report the number of queries performed under this section and the results of those queries to the Governor's Crime Commission.

State law prohibits any county or city from adopting any policy, ordinance, or procedure that restricts enforcement of federal immigration laws. A county or city may not prohibit law enforcement from gathering or communicating citizenship or immigration information of an individual to federal law enforcement agencies. G.S. 153A-145.5; G.S. 160A-205.2.

Sections 2 and 3 of the bill would amend G.S. 153A-145.5 and G.S. 160A-205.2 to restrict counties and cities from prohibiting federal law enforcement officers from entering and conducting enforcement activities at confinement sites.

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Section 4 of the bill creates a new section (G.S. 64-40) that would:

- Grant a citizen the right to file a declaratory or injunctive relief action against a city, county, or law enforcement agency for not complying with State laws related to immigration.
- Authorize civil penalties against counties, cities or law enforcement agencies for failing to comply with orders issued under this section.

Section 5 and 6 of the bill creates new sections that would authorize a chief of police or county sheriff to adopt a policy requiring its agency to conduct community outreach activities to educate the public in regard to immigration protections for victims and witnesses of crimes.

EFFECTIVE DATE: This bill would be effective December 1, 2019.

BACKGROUND: Officers or employees of the Immigration and Naturalization Service may (1) interrogate any alien or person believed to be an alien as to his or her right to be or remain in the U.S., (2) search vessels and conveyances for purposes of preventing illegal entry of aliens into U.S., and (3) make arrest for felonies cognizable under U.S. law. The U.S. Attorney General may enter written agreements with States to allow officers or employees of the State to perform functions of an immigration officer.¹ 8 U.S.C.A. § 1357.

¹ Commonly referred to as a "287(g) Agreement" (Any State or local law enforcement agency may authorize its law enforcement officers to perform functions under 8 U.S.C.A. § 1357 if the agency has entered into a Memorandum of Agreement or Understanding for that purpose. G.S. 128-1.1).