



2023-2024 General Assembly

# HOUSE BILL 10: Require ICE Cooperation & Budget Adjustments, Sec. 9.1: Require Sheriffs to Cooperate with ICE

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<b>Committee:</b>		<b>Date:</b>	December 19, 2024
<b>Introduced by:</b>		<b>Prepared by:</b>	Susan Sitze Staff Attorney
<b>Analysis of:</b>	Sec. 9.1 of S.L. 2024-55		

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**OVERVIEW:** *Section 9.1 of S.L. 2024-55 does the following:*

- *Requires that Immigration and Customs Enforcement of the United States Department of Homeland Security (ICE) be queried when an individual charged with certain offenses is in custody and that person's legal residency or United States citizenship status is undetermined.*
- *Requires a judicial official to order that a prisoner subject to a detainer and administrative warrant be held in custody until ICE resolves the request or 48 hours, whichever occurs first.*
- *Appropriates \$278,994 in recurring funds to hire two full-time jail inspectors.*

*This bill was vetoed by the Governor on September 20, 2024, and that veto was overridden by the General Assembly on November 20, 2024.*

*Subsection (a) of Section 9.1 became effective December 1, 2024, and applies to offenses committed on or after that date. The remainder of Section 9.1 became effective July 1, 2024.*

## **CURRENT LAW:**

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

North Carolina 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 a felony or impaired driving offense.
- Send a query, where possible, 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.

## **BILL ANALYSIS:**

Subsection (a) of Section 9.1 amends G.S. 162-62 to require the administrator, or other person in charge of a confinement facility (administrator), to query ICE if they are unable to determine if a person in custody and charged with certain offenses is a legal resident or citizen of the United States. The following offenses require an ICE inquiry:

- G.S. 90-95- Felonies related to the Controlled Substance Act (Not simple possession or other misdemeanors.)

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- A felony offense under any of the following:  
Article 6 of Chapter 14 – Homicide offenses.  
Article 7B of Chapter 14 – Rape and Other Sex Offenses.  
Article 10 of Chapter 14 – Kidnapping and Abduction.  
Article 10A of Chapter 14 – Human Trafficking offenses.  
Article 13A of Chapter 14 – Offenses in violation of the North Carolina Criminal Gang Suppression Act.
- A Class A1 misdemeanor or felony Assault. (This includes Assault on a Female and the other most serious misdemeanors but not a simple assault.)
- A violation of a Domestic Violence Protective Order.

G.S. 162-62 is also amended to provide that 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 will be 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.
- ICE rescinds the detainer.

Subsection (b) of Section 9.1 appropriates \$278,994 in recurring funds to the Department of Health and Human Services, Division of Health Services Regulations, Construction Section, to be used to hire two full-time jail inspectors.

**EFFECTIVE DATE:** This bill was vetoed by the Governor on September 20, 2024, and that veto was overridden by the General Assembly on November 20, 2024.

Subsection (a) of Section 9.1 became effective December 1, 2024, and applies to offenses committed on or after that date. The remainder of Section 9.1 became effective July 1, 2024.

## **BACKGROUND:**

An **I-247 Immigration Detainer** is a request issued by ICE that an agency maintain custody of the subject of the detainer for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, to allow the Department of Homeland Security to take custody of the subject.

An **I-200 Warrant for Arrest of Alien** directs an agency to arrest an individual for removal proceedings and is issued by ICE when an immigration officer has found probable cause to believe that an individual is subject to removal from the United States.

*\*Debbie Griffiths and Kara McCraw, Staff Attorneys, and Jennifer Bedford, former Staff Attorney, substantially contributed to this summary.*