



Rep. Daniel J. Burke

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LRB097 03748 RLC 54472 a

1 AMENDMENT TO HOUSE BILL 929

2 AMENDMENT NO. _____. Amend House Bill 929, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Code of Criminal Procedure of 1963 is
6 amended by adding Article 124C as follows:

7 (725 ILCS 5/Art. 124C heading new)

8 ARTICLE 124C. SMART ENFORCEMENT LAW

9 (725 ILCS 5/124C-1 new)

10 Sec. 124C-1. Short title. This Article may be cited as the
11 Smart Enforcement Law.

12 (725 ILCS 5/124C-5 new)

13 Sec. 124C-5. Preamble and findings.

14 (a) The State of Illinois is committed to upholding our

1 criminal laws and in imposing appropriate penalties for those
2 convicted of criminal offenses. In the case of noncitizens of
3 the United States, the consequences of criminal convictions may
4 include removal from the United States by U.S. Immigration and
5 Customs Enforcement (ICE).

6 (b) In 2007, in enacting Public Law 110-161, 121 Stat.
7 1844, 2365, Congress provided initial appropriations to
8 "improve and modernize efforts to identify aliens convicted of
9 a crime, sentenced to imprisonment, and who may be deportable,
10 and remove them from the United States once they are judged
11 deportable". ICE has used this funding to create the "Secure
12 Communities" program, through which ICE receives and reviews
13 fingerprints that local police take for criminal suspects upon
14 booking.

15 (c) Illinois participates in the "Secure Communities"
16 pursuant to a Memorandum of Agreement entered into by ICE and
17 the Illinois State Police on November 2, 2009. ICE is
18 implementing the program in counties throughout Illinois and
19 intends to cover the entire nation by 2013.

20 (d) Contrary to the goal, stated by Congress and affirmed
21 by ICE, of identifying and removing noncitizens convicted of
22 crimes, "Secure Communities" has largely been identifying
23 individuals with no criminal convictions for ICE arrest and
24 removal. Through February 2011, 46.5% of individuals arrested
25 by ICE under "Secure Communities" had no convictions.

26 (e) "Secure Communities" imposes additional costs upon

1 county jails and other local law enforcement by requiring that
2 the jails hold individuals who may otherwise be released. The
3 costs of these holds are borne by local taxpayers.

4 (f) By subjecting individuals with no criminal convictions
5 to removal, "Secure Communities" disrupts families and
6 communities, encourages racial and ethnic profiling, burdens
7 taxpayers, and poses harm to our State as a whole.

8 (g) Because the "Secure Communities" program is straying so
9 far from its stated goals, at significant cost to families and
10 communities, the State must monitor and review the impact of
11 this program to determine whether it is indeed benefiting the
12 people of Illinois.

13 (h) ICE itself has been unclear and uncertain as to whether
14 counties and local jurisdictions can choose not to participate
15 in "Secure Communities", even if they believe that the program
16 would harm their communities. The State should accordingly
17 enable counties and local jurisdictions to refuse to
18 participate should they choose to do so.

19 (725 ILCS 5/124C-10 new)

20 Sec. 124C-10. Participation in the U.S. Immigration and
21 Customs Enforcement "Secure Communities" Program.

22 (a) This Section pertains to the U.S. Immigration and
23 Customs Enforcement (ICE) "Secure Communities" Program, in
24 which Illinois participates pursuant to a "Memorandum of
25 Agreement Between the U.S. Department of Homeland Security

1 Immigration and Customs Enforcement and the Illinois State
2 Police" entered into on November 2, 2009.

3 (b) The Illinois State Police shall identify a means by
4 which a local law enforcement agency may request to withhold
5 its participation in the "Secure Communities" program, and
6 shall facilitate any such request to the appropriate federal
7 agencies.

8 (c) (1) Any county participating in the "Secure
9 Communities" program shall submit to the Illinois State Police,
10 in a form and manner to be determined by the Illinois State
11 Police, the following information:

12 (A) the number of individuals held by the county's jail
13 during each calendar month pursuant to a detainer issued by
14 ICE requesting that the jail hold an individual until ICE
15 takes that individual into its custody;

16 (B) with respect to those individuals subject to such
17 detainers:

18 (i) the charge or charges for which the individual
19 was arrested;

20 (ii) to the extent known by the county, whether the
21 arrest occurred after a traffic stop, after a Terry
22 stop, pursuant to an arrest warrant, or under other
23 circumstances relating to warrantless arrests;

24 (iii) the charge or charges if any for which the
25 individual was arraigned and prosecuted;

26 (iv) the disposition of the criminal charge or

1 charges described in clause (iii) of this paragraph
2 (1), and the date of the disposition;

3 (v) whether bond was posted for the individual, and
4 if so, the date on which bond was posted;

5 (vi) the length of time (in days) the individual
6 was held in the jail's custody;

7 (vii) whether ICE took the individual into
8 custody, and if so, the date on which ICE took custody;

9 (viii) the cost incurred by the county for holding
10 these individuals subject to the ICE detainer beyond
11 the date on which bond was posted or they otherwise
12 became subject to release, and whether the county
13 requested reimbursement for any federal agency to
14 cover expenses arising from the ICE detainers;

15 (ix) the individual's national origin, if
16 voluntarily reported by the individual, provided that
17 nothing in this reporting requirement shall be
18 construed to require that the county determine or
19 inquire into the national origin of any such
20 individuals, or to authorize any law enforcement
21 agencies to compel such individuals to provide this
22 information;

23 (x) to the extent known by the county, whether the
24 detainer arose pursuant to the "Secure Communities"
25 program, the ICE Criminal Alien Program, an "immigrant
26 alien query" requested by the arresting law

1 enforcement agency, or other means.

2 (2) The Illinois State Police shall arrange for the data
3 collected pursuant to paragraph (1) of this subsection (c) to
4 be made available to the public.

5 (d) As a condition for its continued participation in the
6 "Secure Communities" program, the State of Illinois shall
7 modify its Memorandum of Agreement with ICE to provide that, in
8 line with ICE's Congressional authorization of identifying
9 "aliens convicted of a crime, sentenced to imprisonment, and
10 who may be deportable," Public Law 110-161, 121 Stat. 1844,
11 2365 (2007), no Illinois arrest record information regarding
12 any individual may be analyzed by ICE through the "Secure
13 Communities" program unless such individual has been convicted
14 of a criminal offense.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."