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H.298

Introduced by Representatives Dodge of Essex, Headrick of Burlington, Cole
of Hartford, Donahue of Northfield, Logan of Burlington,
McGill of Bridport, Minier of South Burlington, Olson of
Starksboro, and Tomlinson of Winooski

Referred to Committee on

Date:

Subject: Corrections; powers of the department; immigration assistance;
restrictions

Statement of purpose of bill as introduced: This bill proposes to terminate and
restrict Department of Corrections' assistance to federal immigration
authorities. Specifically, this bill prohibits Department assistance to the
federal immigration authorities to the extent permitted under federal law. This
bill also creates reporting requirements to apprise the General Assembly of the
current extent of Department assistance to federal immigration authorities,
inquiries for assistance from federal immigration authorities, and any legal
challenges or federal law changes affecting the provisions of this bill. Finally,
this bill proposes to provide rulemaking authority to the Department to train
and educate its employees on the relevant laws and restrictions, in addition to
penalizing employees for noncompliance.

1 An act relating to restricting the Department of Corrections' cooperation
2 with federal immigration authorities

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. INTENT

5 (a) It is the intent of the General Assembly to ensure equality under the law
6 for all residents of Vermont by restricting assistance to federal immigration
7 authorities as such assistance can undermine the public trust and
8 disproportionately impact Vermont's immigrant communities.

9 (b) It is the further intent of the General Assembly to divest from assisting
10 federal immigration authorities to the greatest extent possible under the law,
11 including the examination and possible termination of federal contracts with
12 the Department of Corrections that do not align with Vermont's values and
13 policies.

14 Sec. 2. 28 V.S.A. § 101 is amended to read:

15 § 101. POWERS OF THE DEPARTMENT

16 The Department is charged with the following powers:

17 (1) to establish, maintain, and administer such State correctional
18 facilities and programs as may be required for the custody, control,
19 correctional treatment, and rehabilitation of committed persons, and for the
20 safekeeping of such other persons as may be committed to the Department in
21 accordance with law;

1 (2) to operate diagnostic and treatment programs and such other
2 programs deemed desirable to treat persons committed to the Department and
3 to further other purposes and objectives of this title;

4 (3) to administer the supervision of persons placed on probation and
5 released on parole and to administer probation and parole services;

6 (4) to employ such officers, employees and agents as deemed necessary
7 to discharge the functions of the Department;

8 (5) to establish standards for the management, operation, personnel, and
9 program of all correctional facilities in the State;

10 (6) to act in an advisory capacity in assisting law enforcement agencies,
11 except federal immigration authorities, and communities in the prevention of
12 crime and delinquency;

13 (7) to enforce and administer such other laws as may be vested in the
14 Department;

15 (8) to enter into agreements for assistance in support of the operation of
16 jails or lockups in accordance with criteria established by the Department, and
17 to use the jails or lockups as provided in this title, except agreements or
18 cooperative arrangements to assist federal immigration authorities;

19 (9) notwithstanding any other provision of law, the State and the
20 Department shall not be responsible for the expense of detaining a person in
21 custody except as provided in this title;

1 authorities to investigate the immigration status of any person in the custody of
2 the Department unless required by federal law.

3 (3) The Department of Corrections shall not accept requests by federal
4 immigration authorities to support or assist in operations that primarily concern
5 immigration enforcement.

6 (4) The Department of Corrections shall not detain or transfer persons in
7 its custody to federal immigration authorities unless a judicial warrant for
8 arrest is provided. An immigration detainer shall not be considered a judicial
9 warrant or a lawful basis to continue the detention of a person in the custody of
10 the Department. This subsection shall not be construed to affect the detention
11 associated with criminal arrest warrants.

12 (b) Reporting.

13 (1) Annually, on or before December 1, the Department of Corrections
14 shall submit a written report to the House Committees on Corrections and
15 Institutions and on Government Operations and Military Affairs and the Senate
16 Committees on Institutions and on Government Operations detailing any
17 requests for assistance from federal immigration authorities and the
18 Department's response to any requests, in addition to any legal challenges or
19 federal mandates concerning assistance or collaboration with federal
20 immigration authorities.

1 (2) The Department of Corrections shall report any noncompliance with
2 the provisions of this section or rules adopted pursuant to this section to the
3 Office of the Vermont State Auditor.

4 (c) Rulemaking. The Department of Corrections shall adopt rules pursuant
5 to 3 V.S.A. chapter 25 creating:

6 (1) training and education for Department personnel to comply with this
7 section and any relevant federal laws;

8 (2) protocols for the intake and responses to any federal immigration
9 authority inquiries relevant to the provisions of this section; and

10 (3) penalties for Department personnel who do not comply with the
11 provisions of this section, including discipline, termination, and monetary
12 fines.

13 Sec. 5. DEPARTMENT OF CORRECTIONS; FEDERAL IMMIGRATION
14 AUTHORITIES; CURRENT COOPERATION; TERMINATION

15 (a)(1) The Department of Corrections shall provide a written report
16 detailing the existence and scope of the agreements, cooperation, or assistance
17 provided to federal immigration authorities, including any financial and
18 resource implications.

19 (2) The report identified in subdivision (1) of this subsection shall be
20 submitted to the House Committees on Corrections and Institutions and on
21 Government Operations and Military Affairs and the Senate Committees on

1 Institutions and on Government Operations within 30 days after passage of this
2 act.

3 (b) The Department of Corrections shall terminate any existing contracts or
4 agreements with federal immigration authorities within 30 days after passage
5 of this act except as required by federal law.

6 Sec. 6. EFFECTIVE DATE

7 This act shall take effect on passage.