2017 -- H 5093

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N C T

RELATING TO STATE AFFAIRS AND GOVERNMENT

Introduced By: Representatives Corvese, Phillips, Ucci, and Coughlin

Date Introduced: January 12, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 159

PUBLIC SAFETY AND PROTECTION ACT

42-159-1. Title.

This chapter shall be known and may be cited as the "Public Safety and Protection Act."

42-159-2. Definitions.

The following words and phrases when used in this chapter shall have the meaning given to them in this section unless the context clearly indicates otherwise:

(1) "Federal immigration agency" means the United States Department of Homeland Security, or its successor agency, and any of its subagencies, including the United States Immigration and Customs Enforcement, the United States Customs and Border Protection, or any other federal agency charged with the enforcement of immigration law.

(2) "Federal immigration official" means an official of the United States Department of Homeland Security, or its successor agency, and any of its subagencies, including the United States Immigration and Customs Enforcement, the United States Customs and Border Protection, or any other federal agency charged with the enforcement of immigration law.

(3) "Immigration detainer" means a written request issued on behalf of the United States Department of Homeland Security to another federal, state, or local law enforcement agency to
provide notice of release and to detain an individual based on an inquiry into immigration status
or an alleged violation of a civil immigration law, including detainers issued pursuant to 8 C.F.R.
287.7 and 8 C.F.R. 236.1, and on the Department of Homeland Security Form I-247
"Immigration Detainer – Notice of Action."

(4) "Inmate" means anyone in the custody of a law enforcement agency.

(5) "Law enforcement agency" means an agency in the state of Rhode Island charged
with enforcement of state, municipal, or federal laws, or with managing custody of detained
persons in the state, and includes municipal police departments, sheriff's departments, state
police, campus police, and the Rhode Island department of corrections.

(6) "Local government entity" means any city, town or other political subdivision of this
state.

(7) "Local government official" means any person holding public office or having official
duties as a representative, agent, or employee of a local government entity.

(8) "State entity" means any agency, commission, council, bureau, authority, office, or
board established under the laws of the state.

(9) "State official" means any person holding public office or having official duties as a
representative, agent, or employee of the state.

42-159-3. Cooperation with federal immigration authorities.

(a) No state or local government entity or official may prohibit, or in any way restrict,
any state or local government entity or official from sending to, or receiving from, the United
States Department of Homeland Security, or its successor agency, information regarding the
citizenship or immigration status, lawful or unlawful, of any individual.

(b) No state or local government entity or official may restrict taking any of the following
actions with respect to information regarding immigration status, lawful or unlawful, of any
individual:

(1) Sending such information to, or requesting or receiving such information from, the
United States Department of Homeland Security, or its successor agency;

(2) Maintaining such information;

(3) Exchanging such information with any other federal, state, or local government entity;

(4) Determining eligibility for any public benefit, service, or license provided by federal
law or a law of this state or its political subdivisions;

(5) Verifying a claim of residence or domicile if a determination of residence or domicile
is required under federal law or a law of this state or its political subdivisions or under a judicial
order issued pursuant to a civil or criminal proceeding in this state; or
 Confirming the identity of a person who is detained by law enforcement officials.

(c) All state and local government entities and officials shall fully comply with and, to the full extent permitted by law, support the enforcement of federal immigration law.

(d) No state or local government entity or official may limit or restrict the enforcement of federal immigration law, including, but not limited to, limit or restrict a state or local entity or official from complying with an immigration detainer, limit or restrict a state or local entity or official from providing a federal immigration official access to an inmate for interview, limit or restrict a state or local entity or official from initiating an immigration status investigation, or limit or restrict a state or local entity or official from providing a federal immigration official with the incarceration status or release date of an inmate in custody of a state or local governmental entity.

(e) Notwithstanding any other law, a law enforcement agency may securely transport an alien who the agency has received verification from the United States Department of Homeland Security is unlawfully present in the United States and who is in the agency's custody to a federal facility in Rhode Island or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial authorization before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside of Rhode Island.

42-159-4. Duty to report.

Every person holding public office or having official duties as a representative, agent, or employee of the state or a local government entity shall have a duty to report a violation of §42-159-3. Any such person who willfully fails to report any violation of this chapter when the person knows that this chapter is being violated shall be guilty of a misdemeanor, which shall be punishable by imprisonment for a term not to exceed one year or a fine of not more than one thousand dollars ($1,000), or both.

42-159-5. Resident private right of actions; Penalties.

(a) Any resident of the state who is a United States citizen or legal permanent resident may bring an action in the superior court to assert a violation of §42-159-3. For any action under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

(b) If there is a judicial finding that a state or local government entity or official has violated §42-159-3, the court shall enjoin such policy or practice and order that such entity or official pay a civil penalty of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) for each day that the policy or practice remains in effect.
(c) The court shall collect the civil penalty prescribed in subsection (b) of this section and remit the same to the general fund.

(d) The court may award court costs and reasonable attorney fees to any person that substantially prevails by adjudication on the merits in a proceeding brought pursuant to this section.

42-159-6. Resident complaint; Penalties.

(a) The state attorney general shall prescribe a complaint form for a person to allege a violation of §42-159-3. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form.

(b) On receipt of a complaint of a violation of §42-159-3, the attorney general shall investigate whether a violation of §42-159-3 has occurred. The state police may assist in investigating the complaint.

(c) If, after an investigation, the attorney general determines that the complaint is not false or frivolous, the attorney general shall report the violation to the governor and state treasurer and that state or local government entity shall not be eligible to receive any funds, grants, or appropriations from the state until the attorney general has certified that such violation has ceased.

42-159-7. Implementation.

This chapter shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons, and respecting the privileges and immunities of United States citizens.

SECTION 2. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT

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This act would promote cooperation and assistance in the enforcement of immigration
laws concerning potential immigration law violations, would create a governmental duty to
investigate and report potential immigration violations, a private cause of action, and complaint
procedures. Finally, it would establish civil and criminal penalties for failure to further the active
enforcement of immigration laws.

This act would take effect upon passage.

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