

**LOCAL
FISCAL IMPACT**

Drafting Number: LLS 13-0571	Date: March 15, 2013
Prime Sponsor(s): Rep. Salazar Sen. Aguilar; Carroll	Bill Status: House SVMA
	Fiscal Analyst: Josh Abram (303-866-3561)

TITLE: CONCERNING LOCAL GOVERNMENT INVOLVEMENT WITH FEDERAL IMMIGRATION ISSUES.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill repeals Article 29, Title 29, C.R.S., regarding the immigration status of individuals and local cooperation with federal immigration officials.

Background

Under Article 29, Title 29, C.R.S., a local law enforcement officer who has probable cause to believe that a person arrested for a criminal offense other than domestic violence is not legally present in the United States must report the person to federal immigration officials. The requirement also applies if a person is currently in detention and the county sheriff reasonably believes that the person is not in the country legally. Local governments are prohibited from adopting ordinances or policies that limit or prohibit a law enforcement officer from communicating or cooperating with federal immigration officials with respect to a person's immigration status. Local governments must notify officers of the duty to comply with reporting requirements, and must provide report statistics to the General Assembly.

Immigration law is enforced primarily at the federal level by the U.S. Immigration and Customs Enforcement (ICE) office in the Department of Homeland Security (DHS). As of May 22, 2012, all 64 Colorado counties participate in the federally mandated secure communities initiative to identify people in law enforcement custody who are in the country unlawfully. When law enforcement officers take someone into custody for a criminal offense, they are required to

submit the individual's fingerprints to the Federal Bureau of Investigation (FBI) to be compared with its criminal database. The FBI sends the state and local authorities a record of the individual's criminal history. ICE receives these fingerprints from the FBI, and determines if the individual is in the United States unlawfully and if he or she is a priority for enforcement action (the suspect is both in the country unlawfully and has been charged with or convicted of serious criminal offenses or has committed multiple immigration violations). ICE may request that the state or local jail facility hold the individual for up to 48 hours so ICE can interview the person. Following the interview, ICE decides whether to seek the person's deportation.

Local Government Impact

The existing fiscal impact of Article 29, Title 29, C.R.S., is primarily the cost to hold individuals in county jails for more time than might otherwise be required without the law. Local governments also have costs to train local officers on the requirements of the law, to track the number of ICE reports made annually, and to report statistics to the General Assembly.

Under current law, an individual detained by local police or incarcerated in a county jail and suspected of being in the country unlawfully is reported to ICE, and may also be retained up to 48 additional hours in order for ICE to investigate the individual and possibly take custody. In cases where individuals are detained for 48 additional hours, county jails have increased costs to house each suspect. The cost to incarcerate in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails.

Participation in the federal secure communities initiative means that local law enforcement may still be asked to retain individuals for up to 48 additional hours; however, ICE only requests the additional detention when the results of the background check reveal that the suspect is a priority for enforcement action. Repealing the state law will save local jurisdictions a minimal amount of incarceration costs for each individual who may have been detained for additional time when local law enforcement had probable cause to believe the suspect was in the country unlawfully. Without Article 29, Title 29, C.R.S., that cost only occurs when the ICE requests that suspects be detained following review of the suspects criminal history background. Local jurisdictions will also have small budgetary savings by eliminating current reporting requirements.

Departments Contacted

District Attorneys
Law

Counties
Local Affairs

Municipalities
Sheriffs