

ASSEMBLY BILL

No. 2931

**Introduced by Assembly Member Patterson
(Principal coauthor: Assembly Member Gallagher)**

February 16, 2018

An act to amend Section 7282.5 of the Government Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2931, as introduced, Patterson. Law enforcement: cooperation with immigration officials.

Existing law authorizes a local law enforcement agency to cooperate with federal immigration authorities regarding an individual under certain circumstances, including if the individual has been previously convicted of certain crimes.

This bill would add additional qualifying convictions that would authorize local law enforcement to cooperate with federal immigration authorities regarding the individual. The bill would require the Department of Justice to develop a process to provide a notification to a local law enforcement agency that books, or is holding in custody upon booking, an individual for which cooperation with federal immigration authorities is authorized, as specified. The bill would provide that a law enforcement agency not so notified by the department, or that substantially relies on information provided by the department, or information that is otherwise lawfully known, observed, or obtained, would not be liable for any act or omission related to cooperation or noncooperation with immigration officials that was undertaken or occurred in good faith and in substantial compliance with state law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7282.5 of the Government Code, as
2 amended by Section 2 of Chapter 495 of the Statutes of 2017, is
3 amended to read:

4 7282.5. (a) A law enforcement official shall have discretion
5 to cooperate with immigration authorities only if doing so would
6 not violate any federal, state, or local law, or local policy, and
7 where permitted by the California Values Act (Chapter 17.25
8 (commencing with Section 7284)). Additionally, the specific
9 activities described in subparagraph (C) of paragraph (1) of
10 subdivision (a) of, and in paragraph (4) of subdivision (a) of,
11 Section 7284.6 shall only occur under the following circumstances:

12 (1) The individual has been convicted of a serious or violent
13 felony identified in subdivision (c) of Section 1192.7 of, or
14 subdivision (c) of Section 667.5 of, the Penal Code.

15 (2) The individual has been convicted of a felony punishable
16 by imprisonment in the state prison.

17 (3) The individual has been convicted within the past five years
18 of a misdemeanor for a crime that is punishable as either a
19 misdemeanor or a felony for, or has been convicted within the last
20 15 years of a felony for, any of the following offenses:

21 (A) Assault, as specified in, but not limited to, Sections 217.1,
22 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5,
23 4500, and 4501 of the Penal Code.

24 (B) Battery, as specified in, but not limited to, Sections 242,
25 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and
26 4501.5 of the Penal Code.

27 (C) Use of threats, as specified in, but not limited to, Sections
28 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

29 (D) Sexual abuse, sexual exploitation, or crimes endangering
30 children, as specified in, but not limited to, Sections 266, 266a,
31 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288,
32 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal
33 Code.

- 1 (E) Child abuse or endangerment, as specified in, but not limited
2 to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of
3 the Penal Code.
- 4 (F) Burglary, robbery, theft, fraud, forgery, or embezzlement,
5 as specified in, but not limited to, Sections 211, 215, 459, 463,
6 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal
7 Code.
- 8 (G) Driving under the influence of alcohol or drugs, but only
9 for a conviction that is a felony.
- 10 (H) Obstruction of justice, as specified in, but not limited to,
11 Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.
- 12 (I) Bribery, as specified in, but not limited to, Sections 67, 67.5,
13 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.
- 14 (J) Escape, as specified in, but not limited to, Sections 107, 109,
15 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal
16 Code.
- 17 (K) Unlawful possession or use of a weapon, firearm, explosive
18 device, or weapon of mass destruction, as specified in, but not
19 limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3,
20 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2,
21 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750,
22 and 18755 of, and subdivisions (c) and (d) of Section 26100 of,
23 the Penal Code.
- 24 (L) Possession of an unlawful deadly weapon, under the Deadly
25 Weapons Recodification Act of 2010 (Part 6 (commencing with
26 Section 16000) of the Penal Code).
- 27 (M) An offense involving the felony possession, sale,
28 distribution, manufacture, or trafficking of controlled substances.
- 29 (N) Vandalism with prior convictions, as specified in, but not
30 limited to, Section 594.7 of the Penal Code.
- 31 (O) Gang-related offenses, as specified in, but not limited to,
32 Sections 186.22, 186.26, and 186.28 of the Penal Code.
- 33 (P) An attempt, as defined in Section 664 of, or a conspiracy,
34 as defined in Section 182 of, the Penal Code, to commit an offense
35 specified in this section.
- 36 (Q) A crime resulting in death, or involving the personal
37 infliction of great bodily injury, as specified in, but not limited to,
38 subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192,
39 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

- 1 (R) Possession or use of a firearm in the commission of an
2 offense.
- 3 (S) An offense that would require the individual to register as
4 a sex offender pursuant to Section 290, 290.002, or 290.006 of the
5 Penal Code.
- 6 (T) False imprisonment, slavery, and human trafficking, as
7 specified in, but not limited to, Sections 181, 210.5, 236, 236.1,
8 and 4503 of the Penal Code.
- 9 (U) Criminal profiteering and money laundering, as specified
10 in, but not limited to, Sections 186.2, 186.9, and 186.10 of the
11 Penal Code.
- 12 (V) Torture and mayhem, as specified in, but not limited to,
13 Section 203 of the Penal Code.
- 14 (W) A crime threatening the public safety, as specified in, but
15 not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a,
16 451, and 11413 of the Penal Code.
- 17 (X) Elder and dependent adult abuse, as specified in, but not
18 limited to, Section 368 of the Penal Code.
- 19 (Y) A hate crime, as specified in, but not limited to, Section
20 422.55 of the Penal Code.
- 21 (Z) Stalking, as specified in, but not limited to, Section 646.9
22 of the Penal Code.
- 23 (AA) Soliciting the commission of a crime, as specified in, but
24 not limited to, subdivision (c) of Section 286 of, and Sections 653j
25 and 653.23 of, the Penal Code.
- 26 (AB) An offense committed while on bail or released on his or
27 her own recognizance, as specified in, but not limited to, Section
28 12022.1 of the Penal Code.
- 29 (AC) Rape, sodomy, oral copulation, or sexual penetration, as
30 specified in, but not limited to, paragraphs (2) and (6) of
31 subdivision (a) of Section 261 of, paragraphs (1) and (4) of
32 subdivision (a) of Section 262 of, Section 264.1 of, subdivisions
33 (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section
34 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal
35 Code.
- 36 (AD) Kidnapping, as specified in, but not limited to, Sections
37 207, 209, and 209.5 of the Penal Code.
- 38 (AE) A violation of subdivision (c) of Section 20001 of the
39 Vehicle Code.

1 (4) The individual is a current registrant on the California Sex
2 and Arson Registry.

3 (5) The individual has been convicted of a federal crime that
4 meets the definition of an aggravated felony as set forth in
5 subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection
6 (a) of Section 101 of the federal Immigration and Nationality Act
7 (8 U.S.C. Sec. 1101), or is identified by the United States
8 Department of Homeland Security’s Immigration and Customs
9 Enforcement as the subject of an outstanding federal felony arrest
10 warrant.

11 (6) *The individual has been convicted within the past five years*
12 *of a misdemeanor for, or has been convicted within the last 15*
13 *years of a felony for, any of the following offenses:*

14 (A) *Assault on a peace officer or other public officer as specified*
15 *in subdivision (c) of Section 241 of the Penal Code.*

16 (B) *Domestic battery, as specified in subdivision (e) of Section*
17 *243 of the Penal Code.*

18 (C) *A knowing violation of a protective order, as specified in*
19 *subdivision (a) of Section 273.6 of the Penal Code.*

20 (D) *Theft of goods, labor, or services not exceeding a value of*
21 *nine hundred fifty dollars (\$950) as specified in Section 490.2 of*
22 *the Penal Code.*

23 (E) *Animal cruelty, as specified in subdivision (a) of Section*
24 *597 of the Penal Code.*

25 (F) *Possession of a restricted biological agent, as specified in*
26 *Section 11419 of the Penal Code.*

27 (G) *Carrying a concealed firearm, as specified in subdivision*
28 *(a) of Section 25400 of the Penal Code.*

29 (H) *Failure to stop at the scene of a motor vehicle accident*
30 *where no injury occurs, as specified in subdivision (a) of Section*
31 *20002 of the Vehicle Code.*

32 (I) *Driving under the influence of alcohol, a controlled*
33 *substance, or both, where no injury occurs, as specified in Section*
34 *23152 of the Vehicle Code.*

35 (J) *Being under the influence of a controlled substance, as*
36 *specified in Section 11550 of the Health and Safety Code.*

37 ~~(6)~~

38 (7) In no case shall cooperation occur pursuant to this section
39 for individuals arrested, detained, or convicted of misdemeanors
40 that were previously felonies, or were previously crimes punishable

1 as either misdemeanors or felonies, prior to passage of the Safe
 2 Neighborhoods and Schools Act of 2014 as it amended the Penal
 3 Code.

4 (b) In cases in which the individual is arrested and taken before
 5 a magistrate on a charge involving a serious or violent felony, as
 6 identified in subdivision (c) of Section 1192.7 or subdivision (c)
 7 of Section 667.5 of the Penal Code, respectively, or a felony that
 8 is punishable by imprisonment in state prison, and the magistrate
 9 makes a finding of probable cause as to that charge pursuant to
 10 Section 872 of the Penal Code, a law enforcement official shall
 11 additionally have discretion to cooperate with immigration officials
 12 pursuant to subparagraph (C) of paragraph (1) of subdivision (a)
 13 of Section 7284.6.

14 (c) *The Department of Justice shall establish a process to notify*
 15 *a law enforcement agency when that agency books, or is holding*
 16 *in custody upon booking, a person described in subdivision (a) or*
 17 *(b) by virtue of a qualifying arrest or conviction so that the agency*
 18 *is aware that cooperation with immigration officials is authorized.*
 19 *The department shall provide the notice as soon as possible to the*
 20 *law enforcement agency.*

21 (d) *A law enforcement official or agency that the Department*
 22 *of Justice fails to provide the notice described in subdivision (c)*
 23 *to, or that substantially relies on information provided pursuant*
 24 *to subdivision (c), or information that is otherwise lawfully known,*
 25 *observed, or obtained, shall not be liable for any act or omission*
 26 *related to cooperation or noncooperation with immigration*
 27 *officials that was undertaken or occurred in good faith and in*
 28 *substantial compliance with state law.*

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