S T A T E O F N E W Y O R K

8552--B

2015-2016 Regular Sessions

I N A S S E M B L Y

October 30, 2015

Introduced by M. of A. MURRAY, McDONOUGH, HAWLEY, DiPIETRO, LAWRENCE, CROUCH, GRAF, NOJAY, TENNEY, RA, MALLIOTAKIS, LALOR -- Multi-Sponsored by -- M. of A. McLAUGHLIN -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the general municipal law, in relation to creating the NY Cares Act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known as the New Yorkers Combating Alien Recidivism and Ending Sanctuary Act and may be cited as the "NY Cares Act".

S 2. Paragraph (u) of subdivision 2 of section 709 of the executive law is relettered paragraph (v) and a new paragraph (u) is added to read as follows:

(U) DEVELOP A PLAN TO ENSURE THAT ALL COUNTIES, CITIES, TOWNS AND VILLAGES, AND ANY AGENCY, OFFICE, DEPARTMENT OR AUTHORITY THEREOF, INCLUDING A SHERIFF'S DEPARTMENT, MUNICIPAL POLICE DEPARTMENT OR DISTRICT ATTORNEY'S OFFICE ARE IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION ONE HUNDRED THIRTY-NINE-E OF THE GENERAL MUNICIPAL LAW.

S 3. The general municipal law is amended by adding a new section 139-e to read as follows:

S 139-E. PROHIBITION AGAINST LOCAL GOVERNMENT ACTION TO PREVENT ENFORCEMENT OF CERTAIN FEDERAL LAWS. 1. IN ACCORDANCE WITH ARTICLES NINE AND THIRTEEN OF THE CONSTITUTION OF THE STATE OF NEW YORK, NO COUNTY, CITY, TOWN OR VILLAGE, OR ANY AGENCY, OFFICE, DEPARTMENT OR AUTHORITY THEREOF, INCLUDING A SHERIFF'S DEPARTMENT, MUNICIPAL POLICE DEPARTMENT,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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OR DISTRICT ATTORNEY'S OFFICE, OR THE GOVERNING BOARD THEREOF, SHALL ADOPT ANY RULE, ORDER, ORDINANCE, LOCAL LAW OR POLICY, EITHER FORMALLY OR INFORMALLY, PROHIBITING OR INHIBITING ONE OR MORE OF THE FOLLOWING:

(A) THE ENFORCEMENT OF LAWS OF THIS STATE OR FEDERAL LAWS RELATING TO PERSONS ILLEGALLY IN THE COUNTRY;

(B) THE ABILITY OF LAW ENFORCEMENT OFFICERS TO ASSIST OR COOPERATE WITH FEDERAL OFFICIALS IN THE COURSE OF CARRYING OUT THEIR ROUTINE LAW ENFORCEMENT DUTIES;

(C) THE USE OF LOCAL RESOURCES TO AID IN THE COMPLIANCE WITH DETAINER REQUESTS ISSUED BY THE DEPARTMENT OF HOMELAND SECURITY;

(D) A LAW ENFORCEMENT OFFICER FROM MAKING AN INQUIRY CONCERNING THE LAWFULNESS OF AN INDIVIDUAL'S PRESENCE IN THE COUNTRY IF THE INDIVIDUAL IS LAWFULLY DETAINED OR LAWFULLY ARRESTED, AND/OR VERIFYING SUCH INDIVIDUAL IS LEGALLY IN THE COUNTRY;

(E) THE SHARING OF INFORMATION PERTAINING TO WHETHER THE LAWFULNESS OF AN INDIVIDUAL'S PRESENCE IN THE COUNTRY WITH FEDERAL HOMELAND SECURITY OFFICIALS; OR

(F) THE ABILITY OF FEDERAL HOMELAND SECURITY OFFICIALS TO ENTER AND CONDUCT ENFORCEMENT ACTIVITIES AT A MUNICIPAL OR COUNTY JAIL IN FURTHERANCE OF THEIR DUTY TO ENFORCE FEDERAL LAWS.

2. FOR PURPOSES OF THIS SECTION, A PERSON SHALL NOT BE CONSIDERED TO BE LAWFULLY DETAINED IF SUCH PERSON IS: (A) THE VICTIM OF A CRIME; (B) A COOPERATING WITNESS RELATING TO A CRIME; OR (C) REPORTING A CRIME, CRIMINAL ACTIVITY, OR A PLANNED OR ACTUAL ACT OF TERRORISM.

3. (A) NO STATE FUNDING SHALL BE APPROPRIATED OR DISBURSED TO ANY COUNTY, CITY, TOWN OR VILLAGE, OR ANY AGENCY, OFFICE, DEPARTMENT OR AUTHORITY THEREOF, INCLUDING A SHERIFF'S DEPARTMENT, MUNICIPAL POLICE DEPARTMENT OR DISTRICT ATTORNEY'S OFFICE, DETERMINED TO BE IN WILFUL VIOLATION OF THIS SECTION.

(B) THE COMPTROLLER SHALL, PRIOR TO THE DISBURSEMENT OR DELIVERY OF ANY STATE OR FEDERAL FUNDS, TO A COUNTY, CITY, TOWN OR VILLAGE, OR ANY AGENCY, OFFICE, DEPARTMENT OR AUTHORITY THEREOF, REQUIRE THAT THE CHIEF ELECTED OFFICER OF SUCH COUNTY, CITY, TOWN OR VILLAGE PROVIDE VERIFICATION, SIGNED UNDER PENALTIES OF PERJURY BY SUCH CHIEF ELECTED OFFICER, THAT SUCH COUNTY, CITY, TOWN OR VILLAGE IS IN COMPLIANCE WITH THIS SECTION.

4. THIS SECTION SHALL NOT BE DEEMED TO APPLY TO ANY SCHOOL DISTRICT, CHARTER SCHOOL, OR MUNICIPAL HEALTH SERVICE FACILITY.

S 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 5. This act shall take effect immediately.