

6032--B

2015-2016 Regular Sessions

I N S E N A T E

August 12, 2015

Introduced by Sens. CROCI, DeFRANCISCO, FARLEY, GOLDEN, GRIFFO, LAVALLE, MARTINS, MURPHY, NOZZOLIO, O'MARA, ORTT, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Veterans, Homeland Security and Military Affairs in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

1 Section 1. This act shall be known as the New Yorkers Combating Alien
2 Recidivism and Ending Sanctuary Act and may be cited as the "NY Cares
3 Act".
4 S 2. Paragraph (u) of subdivision 2 of section 709 of the executive
5 law is relettered paragraph (v) and a new paragraph (u) is added to read
6 as follows:
7 (U) DEVELOP A PLAN TO ENSURE THAT ALL COUNTIES, CITIES, TOWNS AND
8 VILLAGES, AND ANY AGENCY, OFFICE, DEPARTMENT OR AUTHORITY THEREOF,
9 INCLUDING A SHERIFF'S DEPARTMENT, MUNICIPAL POLICE DEPARTMENT OR
10 DISTRICT ATTORNEY'S OFFICE ARE IN COMPLIANCE WITH THE REQUIREMENTS OF
11 SECTION ONE HUNDRED THIRTY-NINE-E OF THE GENERAL MUNICIPAL LAW.
12 S 3. The general municipal law is amended by adding a new section
13 139-e to read as follows:
14 S 139-E. PROHIBITION AGAINST LOCAL GOVERNMENT ACTION TO PREVENT
15 ENFORCEMENT OF CERTAIN FEDERAL LAWS. 1. IN ACCORDANCE WITH ARTICLES NINE
16 AND THIRTEEN OF THE CONSTITUTION OF THE STATE OF NEW YORK, NO COUNTY,
17 CITY, TOWN OR VILLAGE, OR ANY AGENCY, OFFICE, DEPARTMENT OR AUTHORITY

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

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1 THEREOF, INCLUDING A SHERIFF'S DEPARTMENT, MUNICIPAL POLICE DEPARTMENT,
2 OR DISTRICT ATTORNEY'S OFFICE, OR THE GOVERNING BOARD THEREOF, SHALL
3 ADOPT ANY RULE, ORDER, ORDINANCE, LOCAL LAW OR POLICY, EITHER FORMALLY
4 OR INFORMALLY, PROHIBITING OR INHIBITING ONE OR MORE OF THE FOLLOWING:

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

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

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

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

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

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

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

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

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

38 4. THIS SECTION SHALL NOT BE DEEMED TO APPLY TO ANY APPROPRIATION TO
39 OR FUNDING FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, OR MUNICIPAL HEALTH
40 SERVICE FACILITY.

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

50 S 5. This act shall take effect immediately.