

STATE OF NEW YORK

2872--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. MURRAY, GRAF, MALLIOTAKIS, ERRIGO, CROUCH, McDONOUGH, RA, DiPIETRO, McLAUGHLIN, BYRNE, B. MILLER, MONTESANO, LAWRENCE, BLANKENBUSH, JOHNS, LOPEZ, HAWLEY, BRABENEC, LALOR, CURRAN
-- read once and referred to the Committee on Governmental Operations
-- 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 prohibiting local government action which prevents the enforcement of federal laws

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (u) of subdivision 2 of section 709 of the executive law is relettered paragraph (v) and a new paragraph (u) is added to
2 read as follows:

3
4 (u) develop a plan, in conjunction with the state police, to determine
5 whether a county, city, town or village, any agency, office, department
6 or authority thereof, including a sheriff's department, municipal police
7 department or district attorney's office is in compliance with the
8 requirements of section one hundred thirty-nine-e of the general municipal
9 law. Together, the commissioner and superintendent of the state
10 police shall compile a list of local government entities that are deemed
11 to be in violation of section one hundred thirty-nine-e of the general
12 municipal law. This list shall be updated monthly, and shall be
13 forwarded to the comptroller.

14 § 2. The general municipal law is amended by adding a new section
15 139-e to read as follows:

16 § 139-e. Prohibition against local government action preventing the
17 enforcement of federal laws. 1. In accordance with articles nine and
18 thirteen of the constitution, no county, city, town or village, or any
19 agency, office, department or authority thereof, including a sheriff's
20 department, municipal police department, or district attorney's office,

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

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1 or the governing body thereof, shall adopt any rule, order, ordinance,
2 local law or policy, either formally or informally, prohibiting or
3 inhibiting the following:

4 (a) the compliance with a detainer request issued by a federal law
5 enforcement agency, pertaining to an individual lawfully detained by the
6 local government entity; or

7 (b) the ability of federal law enforcement officials to enter and
8 conduct enforcement activities at a municipal or county jail, in furth-
9 erance of their duty to enforce federal laws.

10 2. For purposes of this section, a "federal law enforcement agency"
11 includes the:

12 (a) United States central intelligence agency,

13 (b) United States department of homeland security,

14 (c) United States department of justice,

15 (d) United States drug enforcement administration,

16 (e) federal air marshal service,

17 (f) federal bureau of investigation,

18 (g) federal emergency management agency,

19 (h) federal protective service,

20 (i) United States immigration and customs enforcement,

21 (j) national park service,

22 (k) United States secret service,

23 (l) transportation security administration,

24 (m) United States coast guard,

25 (n) United States customs and border protection, and

26 (o) United States marshals.

27 3. (a) A person shall not be considered to be lawfully detained if
28 such contact with law enforcement is for the purpose of reporting a
29 crime or suspected criminal activity, or when the purpose is to assist
30 law enforcement with an investigation.

31 (b) This section shall not apply to any school district, charter
32 school or municipal health services facility.

33 4. (a) No state funding shall be appropriated or disbursed to any
34 county, city, town or village, or any agency, office, department or
35 authority thereof, including a sheriff's department, municipal police
36 department or district attorney's office, determined to be in violation
37 of this section, pursuant to paragraph (u) of subdivision two of section
38 seven hundred nine of the executive law.

39 (b) The comptroller shall, prior to the disbursement or delivery of
40 any state funds, to a county, city, town or village, or any agency,
41 office, department or authority thereof, verify that the receiving enti-
42 ty has not been determined to be in violation of this section, in
43 accordance with the most recent listing received pursuant to paragraph
44 (u) of subdivision two of section seven hundred nine of the executive
45 law.

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

55 § 4. This act shall take effect immediately.