STATE OF NEW YORK

3698

2017-2018 Regular Sessions

IN SENATE

January 25, 2017

Introduced by Sens. CROCI, AKSHAR, DeFRANCISCO, GOLDEN, MURPHY, O'MARA, ORTT, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

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:

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 read as follows:

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

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

§ 139-e. Prohibition against local government action preventing the enforcement of federal laws. 1. In accordance with articles nine and thirteen of the constitution, no 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, or the governing body thereof, shall adopt any rule, order, ordinance,

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

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local law or policy, either formally or informally, prohibiting or inhibiting the following:

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

(b) the ability of federal law enforcement 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 "federal law enforcement agency" includes the:

(a) United States central intelligence agency,

(b) United States department of homeland security,

(c) United States department of justice,

(d) United States drug enforcement administration,

(e) federal air marshal service,

(f) federal bureau of investigation,

(g) federal emergency management agency,

(h) federal protective service,

(i) United States immigration and customs enforcement,

(j) national park service,

(k) United States secret service,

(l) transportation security administration,

(m) United States coast guard,

(n) United States customs and border protection, and

(o) United States marshals.

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

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

4. (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 violation of this section, pursuant to paragraph (u) of subdivision two of section seven hundred nine of the executive law.

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

§ 3. 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.

§ 4. This act shall take effect immediately.