STATE OF NEW YORK

9167--A

IN ASSEMBLY

February 12, 2024

Introduced by M. of A. GANDOLFO, E. BROWN, BENDETT, BARCLAY, BYRNES, DURSO, ANGELINO, MAHER, GRAY, SLATER, BRABENEC, TAGUE, DeSTEFANO, DiPIETRO, JENSEN, PALMESANO, LEMONDES, SMULLEN, K. BROWN, SIMPSON, McDONOUGH, J. A. GIGLIO, J. M. GIGLIO, NOVAKHOV, RA, REILLY, NORRIS, FRIEND, FLOOD, BLUMENCRANZ, MCGOWAN, GALLAHAN -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to requiring law enforcement and courts to notify the United States Immigration and Customs Enforcement agency when an arrested person or defendant is not a United States citizen; to amend the penal law, in relation to adjusting certain maximum sentences; to amend the correction law, in relation to requiring notification of the United States Immigration and Customs Enforcement agency prior to the release of certain noncitizens; and to repeal certain provisions of the penal law, the civil rights law and the judiciary law, in relation to repealing provisions of the "protect our courts act"

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

Section 1. Section 160.20 of the criminal procedure law, as amended by chapter 108 of the laws of 1973, is amended to read as follows:

§ 160.20 Fingerprinting; forwarding of fingerprints.

(a) Upon the taking of fingerprints of an arrested person or defendant as prescribed in section 160.10 **of this article**, the appropriate police officer or agency must without unnecessary delay forward two copies of such fingerprints to the division of criminal justice services.

(b) In the event the arrested person or defendant as prescribed in section 160.10 of this article is not a citizen of the United States, the police officer or local law enforcement agency where the intake was performed shall forward copies of such fingerprints and associated reports detailing the arrest to the United States Immigration and Customs Enforcement agency. The requirement to notify the United States Immigration and Customs Enforcement agency shall apply to all police and law enforcement agencies within the state of New York.

§ 2. The criminal procedure law is amended by adding a new section 370.30 to read as follows:

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

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§ 370.30 Procedure for court notification.

Upon a conviction for a felony or misdemeanor the court in which the defendant was convicted shall immediately notify the United States Immigration and Customs Enforcement agency when the defendant is not a citizen of the United States. Such requirement shall apply to all criminal courts, city courts, town courts and village courts within the state of New York as those terms are defined in section 10.10 of this chapter.

§ 3. Subdivisions 1 and 3 of section 70.15 of the penal law, as amended by section 1 of part OO of chapter 55 of the laws of 2019, are amended to read as follows:

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed [~~three hundred sixty-four days~~] **one year**.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime [~~but, in any event, it shall not exceed three hundred sixty-four days~~].

§ 4. Section 147 of the correction law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

§ 147. Noncitizen incarcerated individuals of correctional facilities. The commissioner shall within three months after admission of a noncitizen incarcerated individual to a correctional facility cause an investigation to be made of the record and past history of such noncitizen and shall upon the termination of such investigation cause the record of such noncitizen, together with all facts disclosed by such investigation, and his or her recommendations as to deportation, to be forwarded to the United States immigration authorities having such matters in charge. **The commissioner shall notify the United States Immigration and Customs Enforcement agency of the discharge, parole or release of a noncitizen incarcerated individual at least five days prior to such discharge, parole or release.**

§ 5. Section 500-c of the correction law is amended by adding a new subdivision 29 to read as follows:

29. Notwithstanding any other provision of law, the chief administrative officer of any local correctional facility operated by the county or the city of New York, or a secure facility operated by the office of children and family services, shall notify the United States Immigration and Customs Enforcement agency of the release of a noncitizen individual who has been detained or confined at such facility at least five days prior to such release or as soon as practicable if release will occur within less than five days.

§ 6. Subdivision 1-a of section 70.15 of the penal law is REPEALED.

§ 7. Section 28 of the civil rights law, as added by chapter 322 of the laws of 2020, is REPEALED.

§ 8. Section 4-a of the judiciary law is REPEALED.

§ 9. Paragraph (aa) of subdivision 2 of section 212 of the judiciary law, as added by chapter 322 of the laws of 2020, is REPEALED.

§ 10. This act shall take effect immediately; provided, however, that the amendments to section 500-c of the correction law made by section five of this act shall not affect the repeal of such section and shall be deemed repealed therewith.