



FEDERATION FOR AMERICAN IMMIGRATION REFORM

Legislative Fact Sheet • October 2014 • www.FAIRUS.org

NEW YORK INTRO. 486

Summary

New York Introduction (Intro.) 486 prohibits all city law enforcement officials in the New York City Department of Corrections from honoring federal detainer requests for any alien otherwise eligible for release from custody. A detainer request is a notification to state or local law enforcement agencies that a federal agency, such as U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), seeks custody of a particular alien for the purpose of removal from the United States. **If Intro. 486 is enacted, New York City officials will have no choice but to release criminal aliens — most of whom have no right to be in the United States — back onto the streets in spite of their immigration status and the crimes they committed.**

Under Intro. 486, an official in the New York City Department of Corrections may only respond to a federal detainer request after an alien becomes eligible for release from custody if the alien meets all of the following criteria:

- (1) ICE has provided the Department of Corrections with a judicial warrant for the alien; AND
- (2) The alien has ever been convicted of a serious or violent crime, such as burglary, extortion, arson, or kidnapping, within the past five years, or is identified as a potential match in the federal government's Terrorist Watchlist.

Intro. 486 also prohibits the Department of Correction officials from expending time while on duty or expending department resources of any kind to disclose information that belongs to the Department or is available to them only in their official capacity, in response to federal immigration inquiries or in communicating with federal immigration authorities regarding any individual's incarceration status, release date, or court appearance dates, unless such repose or communication:

- (1) Relates to a person convicted of a violent or serious crime or identified as a potential match in the Terrorist Watchlist;
- (2) Is unrelated to the enforcement of immigration law; OR
- (3) Is otherwise required by law.

Intro. 486 also prohibits federal immigration authorities from maintaining an office or quarters on land over which the Department of Corrections exercises jurisdiction, for the purpose of investigating possible violations of civil immigration law. Intro. 486 grants the

Mayor authorization to, by executive order, authorize federal immigration authorities to maintain an office or quarters on such land for purposes unrelated to the enforcement of civil immigration law.

Lastly, Intro. 486 requires the Department of Corrections to post, no later than September 30, 2015, and no later than September 30 each subsequent year, a report on the Department's website that includes the following information:

- (1) A breakdown of the total number of federal detainer requests lodged with the Department, organized by reason;
- (2) A breakdown of the total number of aliens held pursuant to federal detainer requests, organized by reason;
- (3) The total number of aliens transferred to the custody of federal immigration authorities;
- (4) The total number of aliens transferred to the custody of federal immigration authorities pursuant to civil immigration detainers who had at least one conviction on a serious or violent crime;
- (5) The number of aliens transferred to the custody of federal immigration authorities pursuant to civil immigration detainers that had convictions for a serious or violent crime and were identified as possible matches in the Terrorist Watchlist;
- (6) The amount of state criminal alien assistance funding requested and received from the federal government;
- (7) The number of individuals for whom civil immigration detainers were not honored;
AND
- (8) The number of aliens held pursuant to civil immigration detainers beyond the time when such aliens would otherwise have been released from the Department's custody who were not transferred to the custody of federal immigration authorities either because of the expiration of the forty-eight-hour hold period provided in 8 C.F.R. 287.7 or because federal immigration authorities disavowed an intention to assume custody.

Reasons to oppose Intro. 486

• **Intro. 486 poses a serious threat to public safety & will create safe havens that facilitate criminal activity.** State and local jurisdictions that institute non-cooperation policies such as Intro. 486 become magnets for illegal immigration and illegal immigration results in higher crime rates. Frankly, accommodating those who violate our laws only encourages more lawlessness. Even the average illegal alien, who some claim is "otherwise law-abiding" despite violating our duly established immigration law, violates numerous laws, including, but not limited to, laws prohibiting identity theft, forgery, and driving without a license or insurance, often creating real victims.

Conversely, state and local jurisdictions that cooperate with and assist the federal government in its immigration enforcement efforts see a dramatic decrease in illegal immigration and crime. For example, For example, after Arizona got tough on illegal immigration and instituted policies of cooperation with the Department of Homeland Security (DHS), the State experienced a significant decrease in violent crime. Likewise,

Prince William County, Virginia experienced a reduction in violent crime (and hit-and-run accidents) after instituting a policy of cooperation with DHS.

- **Intro. 486 will undermine national security efforts and enable terrorists and individuals of national security concern to go unnoticed and carry out their activities unimpeded by immigration law.** Intro. 486 only allows the Department of Corrections to comply with a federal detainer request for an alien who is a potential match on the Terrorist Watchlist if ICE presents a judicial warrant, thus potentially requiring the Department to release possible terrorist threats back into the community. However, as even illegal alien advocates admit, the requirement of a judicial warrant will in practice “end all deportation holds” because ICE does not obtain judicial warrants to accompany detainers.

Over half of the 48 individuals convicted or tied to recent terrorist plots in the United States either were themselves illegal aliens or relied upon illegal aliens to get fake IDs. Immigration violators participated in the first attack on the World Trade Center, the Los Angeles Millennium bombing plot, the New York subway bombing conspiracy, and the 9/11 terrorist attacks.

ICE has just 20,000 employees, only half of which are dedicated to the apprehension and removal of illegal aliens. The cooperation of state and local police forces, which number about 800,000 strong, is vital to ferreting out those among us who wish to cause us harm. At least five of the 9/11 hijackers were illegal aliens, of which four—ringleader and pilot Mohammed Atta, pilot Hani Hanjour, pilot Ziad Jarrah, and muscle Nawaf al-hazmi—came into contact with state and local law enforcement several times before the attacks for various reasons such as speeding or driving without a license. If those state and local law enforcement agencies had been working with federal immigration officials, the 9/11 terrorist plot might have been thwarted.

- **Intro. 486 will result in a needless waste of limited public resources.** Intro. 486 would force the federal government to expend manpower and money to seek out and arrest deportable criminals who have already been arrested and taken into custody by New York City law enforcement officials for other crimes. Federal immigration enforcement efforts are funded by the American taxpayer, including the citizens and legal residents of New York City. Intro. 486 purports to conserve resources, but in the end, costs us all much, much more.

- **Intro. 486 isn't necessary to establish trust between law enforcement & immigrant communities.** It is absurd to suggest that immigrants do not want their communities kept safe from criminal aliens. Moreover, police do not inquire about the immigration status of witnesses or victims of crime, much less fingerprint them. Therefore, there is no reason for immigrants – even illegal immigrants who have not committed other criminal offenses – to be deterred from cooperating with police.

- **Intro. 486 will cost taxpayers money by restricting ICE access to criminal aliens.** Under the State Criminal Alien Assistance Program, ICE must gain access to criminal aliens in state and local jails to determine immigration status for jails to be reimbursed for

correctional officer salary costs for incarcerating illegal aliens. No access means no reimbursement, resulting in state and local taxpayers picking up the tab.

- **Intro. 486 circumvents the removal priorities already set by federal immigration officials.** Under guidelines set by the Obama Administration, federal immigration officials may only issue detainers for aliens that the federal government has already determined to be a threat to national security, public safety, or border security. Intro. 486 sets the judgment of federal authorities aside and dangerously narrows these constraints.