

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL DRS35051-ND-64A

Short Title: Require Cooperation with ICE 2.0. (Public)

Sponsors: Senators Edwards, Sanderson, and Britt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE INDIVIDUALS WHO ARE CHARGED WITH CERTAIN CRIMES  
3 AND WHO ARE SUBJECT TO A DETAINER REQUEST BE HELD FOR FORTY-EIGHT  
4 HOURS AND TO REQUIRE CERTAIN REPORTS FROM LOCAL LAW  
5 ENFORCEMENT.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 162-62 reads as rewritten:

8 "**§ 162-62. Legal status of prisoners.**

9 (a) When any person charged with a felony or an impaired driving offense is confined  
10 for any period in a county jail, local confinement facility, district confinement facility, or satellite  
11 jail/work release unit, the administrator or other person in charge of the facility shall attempt to  
12 determine if the prisoner is a legal resident of the United States by an inquiry of the prisoner, or  
13 by examination of any relevant documents, or both.

14 (b) If the administrator or other person in charge of the facility is unable to determine if  
15 that prisoner is a legal resident or citizen of the United States or its territories, the administrator  
16 or other person in charge of the facility holding the ~~prisoner, where possible,~~ prisoner shall make  
17 a query of Immigration and Customs Enforcement of the United States Department of Homeland  
18 Security. If the prisoner has not been lawfully admitted to the United States, the United States  
19 Department of Homeland Security will have been notified of the prisoner's status and  
20 confinement at the facility by its receipt of the query from the facility.

21 (b1) If the administrator or other person in charge of the facility holding the prisoner  
22 receives a detainer request from a representative of Immigration and Customs Enforcement of  
23 the United States Department of Homeland Security following the query made in subsection (b)  
24 of this section and the prisoner is charged with a crime under G.S. 90-95 or Article 6, Article 7B,  
25 Article 8, Article 10A, or Article 13A of Chapter 14 of the General Statutes, the administrator or  
26 other person in charge of the facility shall hold the prisoner for 48 hours from the time of the  
27 receipt of the detainer regardless of the prisoner's satisfaction of any pretrial release conditions  
28 ordered by a judicial official under G.S. 15A-534. If, during this 48-hour time period, the prisoner  
29 or another person is able to present proof to the administrator or other person in charge of the  
30 facility holding the prisoner that the prisoner is a legal resident or citizen of the United States or  
31 its territories, the prisoner shall no longer be held pursuant to this section and may be released  
32 upon the satisfaction of all other pretrial release conditions imposed against the defendant.

33 (b2) If the administrator or other person in charge of the facility holding the prisoner (i)  
34 willfully fails to make a query of Immigration and Customs Enforcement of the United States  
35 Department of Homeland Security when required to do so under subsection (b) of this section or  
36 (ii) willfully fails to hold a prisoner for 48 hours when required to do so under subsection (b1) of



1 this section, the administrator or other person in charge of the facility shall be guilty of a Class 1  
2 misdemeanor.

3 (c) ~~Nothing~~ Except as provided in subsection (b1) of this section, nothing in this section  
4 shall be construed to deny bond to a prisoner or to prevent a prisoner from being released from  
5 confinement when that prisoner is otherwise eligible for release.

6 ...."

7 **SECTION 1.(b)** Beginning October 1, 2022, and annually thereafter, the  
8 administrator or other person in charge of each county jail, local confinement facility, district  
9 confinement facility, or satellite jail or work release unit within the State shall report to the Joint  
10 Legislative Oversight Committee on Justice and Public Safety on each of the following with  
11 regard to compliance with G.S. 162-62:

- 12 (1) The number of times the facility made a query of Immigration and Customs  
13 Enforcement.
- 14 (2) The number of times Immigration and Customs Enforcement responded to a  
15 query.
- 16 (3) The number of times Immigration and Customs Enforcement sent a detainer  
17 request for a prisoner.
- 18 (4) The number of times a prisoner was held for the full 48 hours.
- 19 (5) The number of times a prisoner was held then released following the  
20 satisfaction of proof of legal residence or citizenship required by that  
21 subsection.
- 22 (6) The number of times a prisoner was held who would have otherwise been  
23 eligible for release from custody.
- 24 (7) The number of times Immigration and Customs Enforcement took custody of  
25 a prisoner after notification from the administrator or other person in charge  
26 of the facility holding the prisoner.

27 **SECTION 2.** G.S. 15A-534(c) reads as rewritten:

28 "(c) In determining which conditions of release to impose, the judicial official must, on  
29 the basis of available information, take into account the nature and circumstances of the offense  
30 charged; the weight of the evidence against the defendant; the defendant's family ties,  
31 employment, financial resources, character, and mental condition; whether the defendant is  
32 intoxicated to such a degree that ~~he~~ the defendant would be endangered by being released without  
33 supervision; the length of ~~his~~ the defendant's residence in the community; ~~his~~ the defendant's  
34 record of convictions; ~~his~~ the defendant's history of flight to avoid prosecution or failure to appear  
35 at court proceedings; any direct or collateral circumstances that may (i) increase the likelihood  
36 of the defendant failing to appear at a court proceeding and (ii) increase the difficulty in locating  
37 the defendant upon a failure to appear at a court proceeding; and any other evidence relevant to  
38 the issue of pretrial release."

39 **SECTION 3.** This act becomes effective December 1, 2021, and applies to offenses  
40 committed on or after that date.