

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend An Act To create a Department of Corrections in the District of Columbia to prohibit the District from cooperating with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sanctuary Values Emergency Declaration Resolution of 2019”.

Sec. 2. (a) There exists an immediate need to prohibit the District from cooperating with federal immigration agencies, including by complying with detainer requests from United States Immigration and Customs Enforcement (“ICE”).

(b) Immigrants are a valuable and essential part of the District. With increased immigration enforcement across the country, including in the District, it is critical that the District government remains committed to protecting our residents, regardless of their immigration status.

(c) The District has a responsibility to ensure that all residents are respected and able to interact with public safety officials without fear of adverse civil immigration action.

(d) The Metropolitan Police Department provides police services to all residents of the District, regardless of immigration status, and is prohibited from inquiring into an individual’s immigration status for the purpose of enforcing civil immigration laws.

34 (e) The Executive has also supported the District’s immigrant community by funding
35 legal services for immigrant residents.

36 (f) Section 7 of An Act To create a Department of Corrections in the District of
37 Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07)
38 (“the Act”), authorizes the Department of Corrections (“DOC”) to hold individuals in its custody
39 past their release dates, pursuant to a detainer request from ICE, only when certain criteria are
40 met. When passed in 2012, the Act was one of the first policies in the country to limit
41 compliance with immigration detainer requests. However, current law must now be reconsidered
42 to more fully protect the District and its residents. Since passage of the Act, ICE’s practices have
43 evolved to include requesting notification of individuals’ release dates, in addition to or instead
44 of holds. In addition, multiple federal courts have held that ICE detainer requests to hold
45 individuals violate the Fourth Amendment, and that complying jurisdictions may be held liable.
46 *See e.g., Galarza v. Szalczyk*, 745 F.3d 634 (3rd Cir. 2014).

47 (g) DOC’s current policy is to provide notification to ICE of individuals’ release dates
48 pursuant to detainer requests. On August 23, 2019, the Washington City Paper reported that
49 between January 2016 and June 2019, DOC transferred 43 individuals to ICE custody. Based on
50 reports from community members and service providers, DOC has assisted in the detention of
51 many more individuals after their release from DOC by notifying ICE of release dates and times.

52 (h) Collaborating with ICE, including by complying with detainer requests, does not
53 promote public safety. ICE has created an unsafe, fearful environment for the District’s
54 immigrant residents. When the District cooperates with ICE, trust in District agencies by the
55 immigrant community erodes, and public safety is compromised. Immigrant residents become
56 less likely to seek the help of District agencies, particularly law enforcement.

57 (i) An immigration detainer request is not a criminal detainer issued by a federal judge,
58 but rather a request issued by a federal immigration agent for civil immigration violations. In
59 fact, detainer requests are often made without a probable cause determination into an individual's
60 immigration status and are not subject to review by a federal judge. There is no legal requirement
61 that a local jurisdiction comply with a federal immigration detainer request.

62 (j) Emergency legislation is required to explicitly prohibit DOC from cooperating with
63 federal immigration agencies, including by complying with detainer requests from ICE, absent a
64 judicial warrant for a violation of criminal law or an order issued by a federal judge.

65 (k) In passing this emergency legislation, the District would join numerous states, cities,
66 and counties across the nation in refusing to cooperate with federal immigration agencies absent
67 judicial warrants or orders.

68 Sec. 3. The Council of the District of Columbia determines that the circumstances
69 enumerated in section 2 constitute emergency circumstances making it necessary that the
70 Sanctuary Values Emergency Amendment Act of 2019 be adopted after a single reading.

71 Sec. 4. This resolution shall take effect immediately.