

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 228

Introduced by Council Members Espinal, Johnson, The Speaker (Council Member Mark-Viverito), Levin, Kallos, Menchaca and Koo.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to immigration enforcement

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 10 of the administrative code of the city of New York is amended by adding a new section 10-178 to read as follows:

§ 10-178 Immigration enforcement. a. Definitions. As used in this section, the following terms have the following meanings:

City property. The term “city property” means any real property leased or owned by the city that serves a city governmental purpose and over which the city has operational control.

Immigration enforcement. The term “immigration enforcement” means the enforcement of any civil provision of the immigration and nationality act and any provision of such law that penalizes a person’s presence in, entry into, or reentry into the United States.

b. No agency shall subject its officers or employees to the direction and supervision of the secretary of homeland security primarily in furtherance of immigration enforcement.

c. No city resources, including, but not limited to, time spent by employees, officers, contractors, or subcontractors while on duty, or the use of city property, shall be utilized for immigration enforcement.

d. Whenever any city officer or employee receives a request from a non-local law enforcement agency for the city to provide support or assistance intended to further immigration enforcement, such officer or employee's agency shall make a record relating to such request, including any response or actions taken in response. An office of the mayor, or an agency the head of which is appointed by the mayor, shall be designated by the mayor to submit to the speaker of the council a quarterly report containing an anonymized compilation or summary of such requests and actions taken in response, disaggregated by the requesting non-local law enforcement agency and the agency receiving such a request; provided, however, disclosure of any such information shall not be required if: (i) such disclosure would interfere with law enforcement investigations or (ii) such disclosure is related to actions taken pursuant to clause (i) of subdivision e of this section and would compromise public safety. Such report shall not be required to include information contained in reports required pursuant to section 9-131, 9-205, or 14-154.

e. Nothing in this section shall prohibit city officers and employees from performing their duties in accordance with state and local law by, including, but not limited to: (i) participating in cooperative arrangements with city, state, or federal law enforcement agencies that are not primarily intended to further immigration enforcement or utilizing city resources in connection with such cooperative arrangements and (ii) taking actions consistent with sections 9-205, 9-131, and 14-154. In addition, nothing in this section shall prevent any city officer or employee

from complying with federal law or restrict their discretion to take any action if such restriction is prohibited by federal law.

§ 2. Subdivision f of section 9-131 of the administrative code of the city of New York, as amended by local law number 58 for the year 2014, is amended to read as follows:

f. Reporting. No later than [October 15, 2015] *September 1, 2018* and no later than [October fifteenth] *September 1* of each year thereafter, the department shall post a report on the department website that includes the following information for the preceding twelve month period ending [September thirtieth] *June 30*:

1. the total number of civil immigration detainees lodged with the department, disaggregated to the extent possible by the reason given by federal immigration authorities for issuing detainees, including, but not limited to, that federal immigration authorities:

i. had reason to believe that the persons in the department's custody are subject to removal from the United States;

ii. initiated removal proceedings and served a notice to appear or other charging document on persons in the department's custody;

iii. served a warrant of arrest for removal proceedings on persons in the department's custody; or

iv. obtained orders of deportation or removal from the United States for persons in the department's custody;

2. the number of persons held pursuant to civil immigration detainees beyond the time when such person would otherwise be released from the department's custody, disaggregated to the extent possible by the reason given by federal immigration authorities for issuing the detainees,

including, but not limited to, that federal immigration authorities:

i. had reason to believe that the persons in the department's custody are subject to removal from the United States;

ii. initiated removal proceedings and served a notice to appear or other charging document on persons in the department's custody;

iii. served a warrant of arrest for removal proceedings on persons in the department's custody; or

iv. obtained orders of deportation or removal from the United States for persons in the department's custody;

3. the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainers;

4. the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainers who had at least one conviction for a violent or serious crime;

5. the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainers who had no convictions for a violent or serious crime and were identified as possible matches in the terrorist screening database;

6. the amount of state criminal alien assistance funding requested and received from the federal government;

7. the number of persons for whom civil immigration detainers were not honored pursuant to subdivision b of this section; [and]

8. the number of persons held pursuant to civil immigration detainers beyond the time when

such persons 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[.]; and

9. the number of requests from federal immigration authorities concerning a person's incarceration status, release dates, court appearance dates, or any other information related to such person in the department's custody, and the number of responses honoring such requests by the department, disaggregated by:

i. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities;

ii. the number of responses to federal immigration authorities concerning a person with at least one conviction for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities; and

iii. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime who was identified as a possible match in the terrorist screening database, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the

department facilitated the transfer of such persons to the custody of federal immigration authorities.

§ 3. Subdivision f of section 14-154 of the administrative code of the city of New York, as amended by local law number 59 for the year 2014, is amended to read as follows:

f. Reporting. No later than [October 15, 2015] *September 1, 2018*, and no later than [October fifteenth] *September 1* of each year thereafter, the department shall post a report on the department website that includes the following information for the preceding twelve month period ending [September thirtieth] *June 30*:

1. the number of civil immigration detainees received from federal immigration authorities;
2. the number of persons held pursuant to civil immigration detainees beyond the time when such person would otherwise be released from the department's custody;
3. the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainees; [and]
4. the number of persons for whom civil immigration detainees were not honored pursuant to subdivision b of this section[.]; *and*
5. *the number of requests from federal immigration authorities for such person's incarceration status, release dates, court appearance dates, or any other information related to such person in the department's custody, and the number of responses honoring such requests by the department, disaggregated by:*

i. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of

information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities;

ii. the number of responses to federal immigration authorities where the person had at least one conviction for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities; and

iii. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime who was identified as a possible match in the terrorist screening database, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities.

§ 4. This local law takes effect 60 days after it becomes law, provided that information newly required to be reported by subdivision d of section 10-178, paragraph 9 of subdivision f of section 9-131, and paragraph 5 of subdivision f of section 14-154 of the administrative code of the city of New York, as added by sections one, two, and three of this local law respectively, shall be required to be reported only for periods beginning on the effective date of this local law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on October 31, 2017 and returned unsigned by the Mayor on December 5, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 228 of 2017, Council Int. No. 1568-A of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.