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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 7. MISCELLANEOUS [6000 - 7599.113] (Division 7 enacted by Stats. 1943, Ch. 134.)

CHAPTER 17.2. Standards for Participation in United States Immigration and Customs Enforcement Programs [7283 - 7283.2] (Chapter 17.2 added by Stats. 2016, Ch. 768, Sec. 3.)

7283. For purposes of this chapter, the following terms have the following meanings:

(a) "Community forum" includes, but is not limited to, any regular meeting of the local governing body that is open to the public, where the public may provide comment, is in an accessible location, and is noticed at least 30 days in advance.

(b) "Hold request" means a federal Immigration and Customs Enforcement (ICE) request that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to, Department of Homeland Security (DHS) Form I-247D.

(c) "Governing body" with respect to a county, means the county board of supervisors.

(d) "ICE access" means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:

(1) Responding to an ICE hold, notification, or transfer request.

(2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.

(3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.

(4) Allowing ICE to interview an individual.

(5) Providing ICE information regarding dates and times of probation or parole check-ins.

(e) "Local law enforcement agency" means any agency of a city, county, city and county, special district, or other political subdivision of the state that is authorized to enforce criminal statutes, regulations, or local ordinances; or to operate jails or to maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.

(f) "Notification request" means an Immigration and Customs Enforcement request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N.

(g) "Transfer request" means an Immigration and Customs Enforcement request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X.

(Added by Stats. 2016, Ch. 768, Sec. 3. (AB 2792) Effective January 1, 2017.)

7283.1. (a) In advance of any interview between ICE and an individual in local law enforcement custody regarding civil immigration violations, the local law enforcement entity shall provide the individual with a written consent form

that explains the purpose of the interview, that the interview is voluntary, and that the individual may decline to be interviewed or may choose to be interviewed only with the individual's attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The written consent form shall also be available in any additional languages that meet the county threshold as defined in subdivision (d) of Section 128552 of the Health and Safety Code if certified translations in those languages are made available to the local law enforcement agency at no cost.

(b) Upon receiving any ICE hold, notification, or transfer request, the local law enforcement agency shall provide a copy of the request to the individual and inform the individual whether the law enforcement agency intends to comply with the request. If a local law enforcement agency provides ICE with notification that an individual is being, or will be, released on a certain date, the local law enforcement agency shall promptly provide the same notification in writing to the individual and to the individual's attorney or to one additional person who the individual shall be permitted to designate.

(c) All records relating to ICE access provided by local law enforcement agencies, including all communication with ICE, shall be public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. Records relating to ICE access include, but are not limited to, data maintained by the local law enforcement agency regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means.

(d) Beginning January 1, 2018, the local governing body of any county, city, or city and county in which a local law enforcement agency has provided ICE access to an individual during the last year shall hold at least one community forum during the following year, that is open to the public, in an accessible location, and with at least 30 days' notice to provide information to the public about ICE's access to individuals and to receive and consider public comment. As part of this forum, the local law enforcement agency may provide the governing body with data it maintains regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means. Data may be provided in the form of statistics or, if statistics are not maintained, individual records, provided that personally identifiable information shall be redacted.

(Amended by Stats. 2021, Ch. 615, Sec. 146. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Section 463 of Stats. 2021, Ch. 615.)

7283.2. Nothing in this chapter shall be construed to provide, expand, or ratify the legal authority of any state or local law enforcement agency to detain an individual based upon an ICE hold request.

(Added by Stats. 2016, Ch. 768, Sec. 3. (AB 2792) Effective January 1, 2017.)