

ASSEMBLY, No. 171

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman RICHARD A. MERKT

District 25 (Morris)

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

Assemblyman Chiusano

SYNOPSIS

Prohibits release of illegal immigrants from correctional facilities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 3/6/2009)

1 AN ACT concerning certain inmates in correctional facilities and
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. a. The administrator, superintendent, warden or other person
8 responsible for the operation of a prison, jail, youth detention or
9 other correctional facility shall identify by documentary evidence
10 the nationality of every inmate incarcerated in the facility.

11 b. If an inmate is not a United States citizen as determined
12 pursuant to subsection a. of this section, the administrator,
13 superintendent, warden or other person responsible for the operation
14 of the prison, jail, youth detention or other correctional facility shall
15 identify by documentary evidence whether the inmate is lawfully
16 present in the United States.

17 c. An administrator, superintendent, warden or other person
18 responsible for the operation of the prison, jail, youth detention or
19 other correctional facility who cannot determine by documentary
20 evidence, after due diligence, whether the inmate is a United States
21 citizen as required by subsection a. of this section or cannot
22 determine whether the inmate is lawfully present in the United
23 States as required by subsection b. of this act, shall deem the inmate
24 to be unlawfully present in the United States.

25 d. An inmate shall not be released from incarceration if the
26 inmate is not a United States citizen or is not lawfully present in the
27 United States except to the custody of officials of United States
28 Citizenship and Immigration Services.

29 e. An administrator, superintendent, warden or other person
30 responsible for the operation of a prison, jail, youth detention, or
31 other correctional facility who releases an inmate from
32 incarceration in violation of this section shall be subject to a civil
33 penalty as set forth by the Commissioner of Corrections.

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35 2. The Commissioner of Corrections shall promulgate rules and
36 regulations in accordance with the "Administrative Procedure Act,"
37 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the
38 purposes of this act, and which shall include a schedule of civil
39 penalties to be imposed for a violation of the act as provided in
40 subsection e. of section 1.

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42 3. This act shall take effect on the first day of the fourth month
43 after enactment and shall not apply to any release from
44 incarceration prior to the effective date of the act.

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STATEMENT

This bill is intended to ensure that persons who are unlawfully present in the United States and have been incarcerated in prisons, jails, youth detention, or other correctional facilities in this State are not released back into the general population upon their release, but rather are remanded solely to the custody of federal immigration officials.

The bill requires the administrator, superintendent, warden or other person responsible for the operation of a prison, jail, youth detention or other correctional facility to determine the nationality of every inmate incarcerated in the facility. If an inmate is not a United States citizen, the facility's administrator is required to determine whether the inmate is lawfully present in the United States. When this cannot be determined, the inmate is to be deemed not lawfully present in the United States.

The bill prohibits the release of an inmate if the inmate is not a United States citizen or is not lawfully present in the United States except to the custody of United States Citizenship and Immigration Services officials.

Administrators, superintendents, wardens or other operators of correctional facilities who violate the bill's provisions are liable to a civil fine as specified by the Commissioner of Corrections.