

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 180

An Act to amend and reenact §§ 19.2-294.2 and 53.1-218 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 7 of Title 19.2 a section numbered 19.2-83.2, relating to reports on alien status of jail and correctional facility inmates.

[H 820]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-294.2 and 53.1-218 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 19.2 a section numbered 19.2-83.2 as follows:

§ 19.2-83.2. Jail officer to ascertain citizenship of inmate.

Whenever any person is taken into custody at any jail, the sheriff or other officer in charge of such facility shall inquire as to whether the person (i) was born in a country other than the United States, and (ii) is a citizen of a country other than the United States. The sheriff or other officer in charge of such facility shall make an immigration alien query to the Law Enforcement Support Center of the United States Immigration and Customs Enforcement for any person who (i) was born in a country other than the United States, and (ii) is a citizen of a country other than the United States, or for whom the answer to (i) or (ii) is unknown. The sheriff or other officer in charge shall communicate the results of any immigration alien query to the Local Inmate Data System of the State Compensation Board. The State Compensation Board shall communicate, on a monthly basis, the results of any immigration alien query that results in a confirmation that the person is illegally present in the United States to the Central Criminal Records Exchange of the Department of State Police in a format approved by the Exchange. The information received by the Central Criminal Records Exchange concerning the person's immigration status shall be recorded in the person's criminal history record.

§ 19.2-294.2. Procedure when aliens convicted of certain felonies; duties of probation and parole officer.

A. Whenever a person is (i) convicted in a circuit court of any felony and (ii) referred to a probation or parole officer for a report pursuant to § 19.2-299, or for probation supervision, the probation or parole officer shall inquire as to the citizenship of such person. If upon inquiry it is determined that the person may be an alien based upon his failure to produce evidence of United States citizenship, the probation or parole officer shall report this determination to the Central Criminal Records Exchange of the Department of State Police on forms provided by the Exchange.

B. The inquiry required by this section need not be made if it is apparent that a report on alien status has previously been made to the Central Criminal Records Exchange pursuant to this section.

C. It shall be the responsibility of the Central Criminal Records Exchange of the Department of State Police to review arrest reports submitted by law-enforcement agencies and reports of suspected alien-status inquiries made by probation or parole officers, and to report within sixty days of final disposition to the ~~Immigration and Naturalization Service~~ *Law Enforcement Support Center of the United States Immigration and Customs Enforcement* the identity of all convicted offenders suspected of being an alien.

§ 53.1-218. Duty of officer in charge to inquire as to citizenship; notice to federal immigration officer of commitment of alien.

~~Whenever any person is committed to a correctional facility, it shall be the duty of the director, sheriff or other officer in charge of such facility to~~ *shall inquire as to whether the person is a citizen of the United States, and if he is not, such director, sheriff or other officer shall inquire as to the person's alien status (i) was born in a country other than the United States, and (ii) is a citizen of a country other than the United States. The director, sheriff or other officer in charge of such facility shall make an immigration alien query to the Law Enforcement Support Center of the United States Immigration and Customs Enforcement for any person who (i) was born in a country other than the United States, and (ii) is a citizen of a country other than the United States, or for whom the answer to (i) or (ii) is unknown.*

In the case of a jail, the sheriff or other officer in charge of such facility shall communicate the results of any immigration alien query to the Local Inmate Data System of the State Compensation Board. The State Compensation Board shall communicate, on a monthly basis, the results of any immigration alien query that results in a confirmation that the person is illegally present in the United States to the Central Criminal Records Exchange of the Department of State Police in a format approved by the Exchange.

In the case of a correctional facility of the Department of Corrections, the director or other officer

in charge of such facility shall communicate the results of any immigration alien query that results in a confirmation that the person is illegally present in the United States to the Central Criminal Records Exchange of the Department of State Police in a format approved by the Exchange.

The information received by the Central Criminal Records Exchange concerning the person's immigration status shall be recorded in the person's criminal history record.

If it appears that the person is an alien, the director, sheriff or other officer in charge of the facility shall immediately notify the Central Criminal Records Exchange. However, notification need not be made to the Central Criminal Records Exchange if it is apparent that a report on alien status has previously been made to the Exchange pursuant to § 19.2-83.2 or 19.2-294.2.

2. That the State Compensation Board shall maintain in the Local Inmate Data System, and the Department of Corrections shall maintain in its offender management system, a specific data field for the entry of the response received from the Law Enforcement Support Center of the United States Immigration and Customs Enforcement pursuant to the request made in accordance with § 19.2-83.2 or 53.1-218 of the Code of Virginia for information on an inmate's immigration status.

3. That the Department of Corrections shall confirm the validity of the social security numbers given by inmates and omit from its database those social security numbers determined to be fictitious.