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HOUSE BILL NO. 368

Offered January 9, 2008

Prefiled January 4, 2008

A BILL 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.

Patrons—Carrico, Athey, Bell, Cole, Cosgrove, Gilbert, Hugo, Kilgore, Massie, Merricks, Miller, J.H., Poindexter, Rust and Sherwood

Referred to Committee on Rules

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 communicate the results of these inquiries, including a result specifying that this information is unknown, to the Local Inmate Data System of the State Compensation Board. The State Compensation Board shall submit the data on any such 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 responses to (i) and (ii) are unknown, to the Central Criminal Records Exchange. The State Police shall forward this information to the Law Enforcement Support Center of the United States Immigration and Customs Enforcement along with a request that the Law Enforcement Support Center respond as to the person's immigration status. Any response received by the State Police from the Law Enforcement Support Center concerning an individual's immigration status shall be transmitted to the State Compensation Board for inclusion in the Local Inmate Data System.

§ 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.

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. (i) was born in a country other than the United States, and (ii) is a citizen of a country other than the United States.

In the case of any person committed to a jail, the sheriff or other officer in charge of such facility shall communicate the results of these inquiries, including a result specifying that this information is unknown, to the Local Inmate Data System of the State Compensation Board. The State Compensation Board shall submit the data on any such person who (i) was born in a country other than the United

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58 *States and (ii) is a citizen of a country other than the United States, or for whom the responses to (i)*
59 *and (ii) are unknown, to the Central Criminal Records Exchange. The State Police shall forward this*
60 *information to the Law Enforcement Support Center of the United States Immigration and Customs*
61 *Enforcement along with a request that the Law Enforcement Support Center respond as to the person's*
62 *immigration status. Any response received by the State Police from the Law Enforcement Support Center*
63 *concerning an individual's immigration status shall be transmitted to the State Compensation Board for*
64 *inclusion in the Local Inmate Data System.*

65 *In the case of any person committed to the Department of Corrections, the director or other officer*
66 *in charge of the facility shall submit the data on any such person who (i) was born in a country other*
67 *than the United States and (ii) is a citizen of a country other than the United States, or for whom the*
68 *responses to (i) and (ii) are unknown, to the Central Criminal Records Exchange and to the Law*
69 *Enforcement Support Center of the United States Immigration and Customs Enforcement along with a*
70 *request that the Law Enforcement Support Center respond as to the person's immigration status.*

71 *However, notification need not be made to the Central Criminal Records Exchange if it is apparent*
72 *that a report on alien status has previously been made to the Exchange pursuant to § 19.2-294.2.*

73 **2. That the State Compensation Board shall maintain in the Local Inmate Data System and the**
74 **Department of Corrections shall maintain in its offender management system a specific data field**
75 **for the response received from the Law Enforcement Support Center of the United States**
76 **Immigration and Customs Enforcement pursuant to the request made in accordance with**
77 **§ 19.2-83.2 or 53.1-218 of the Code of Virginia for information on an inmate's immigration status.**

78 **3. That the State Compensation Board shall crosscheck the Local Inmate Date System against the**
79 **illegal alien databases of the National Crime Information Center and the Law Enforcement**
80 **Support Center of the United States Immigration and Customs Enforcement for all inmates**
81 **currently in jails.**

82 **4. That the Department of Corrections shall confirm the validity of the social security numbers**
83 **given by inmates and omit from its database those numbers discovered to be fictitious.**