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HOUSE BILL NO. 2332

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact § 19.2-83.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 7 of Title 19.2 a section numbered 19.2-83.3, relating to determination of citizenship of arrestee by arresting officer.

Patrons—Lingamfelter, Anderson, Athey, Cole, Cox, J.A., Hugo, Landes, Marshall, R.G., Miller, J.H., Poindexter, Robinson and Rust

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-83.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 19.2 a section numbered 19.2-83.3 as follows:

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

~~Whenever~~ *Unless such inquiries have already been made for purposes of a query to the Law Enforcement Support Center of the U. S. Immigration and Customs Enforcement, 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 then make an immigration alien query to the Law Enforcement Support Center of the United States U. S. Immigration and Customs Enforcement for any person who responds that he (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 clause (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.*

§ 19.2-83.3. Arresting officer to ascertain citizenship of arrestee.

A. Whenever any person is placed under arrest by a law-enforcement officer, the officer 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 officer shall make an immigration alien query to the Law Enforcement Support Center of the U.S. Immigration and Customs Enforcement for any person who responds that he (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 clause (i) or (ii) is unknown.

The officer shall communicate the results of any immigration alien query to the Central Criminal Records Exchange of the Department of State Police in a format approved by the Exchange. The information received by the Exchange concerning the person's immigration status shall be recorded in the person's criminal history record.

B. When a law-enforcement officer makes a warrantless arrest and finds, following the inquiries required under subsection A, probable cause to believe that the person under arrest is not legally present in the United States, he shall communicate to the judicial officer the facts and circumstances underlying his belief that the person is not legally present in the United States. If the judicial officer concurs in the determination of the officer and makes the further determination that the person will not appear for trial or hearing, the judicial officer may refuse to admit the person to bail in accordance with § 19.2-120.

INTRODUCED

HB2332