

Department of Planning and Budget
2016 Fiscal Impact Statement

1. Bill Number: HB 481

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Marshall, R.G.

3. Committee: Militia, Police and Public Safety

4. Title: Immigration detainees

5. Summary:

The proposed legislation would require the Director, Department of Corrections, sheriff, or any regional jail superintendent in which an alien is incarcerated to comply with any detainer received from U.S. Immigration and Customs Enforcement. Any alien subject to a detainer shall not be released except to transfer custody to another facility or to U.S. Immigration and Customs Enforcement. However, no alien may be held in custody beyond the date upon which he ordinarily would have been released.

The legislation provides that, if an alien is released in violation of this requirement, the Commonwealth, in the case of the Department of Corrections (DOC) or the locality or localities, in case of jails, would be liable for any tortious injury or act committed by the alien after his release. The legislation would constitute a specific waiver of sovereign immunity.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: See Item 8 below.

8. Fiscal Implications:

According to DOC, it is their policy to comply with any federal detainer; therefore, the proposed legislation would not have any impact on the agency.

The proposed legislation could have a fiscal impact on the state or localities if any correctional official failed to comply with a federal detainer, intentionally or not, and the state or locality subsequently was liable for injuries or damages committed by the alien after his release. However, it is not feasible to project the probability or magnitude of such fiscal impact.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections

Local and regional jails
Counties and cities

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 1/19/2016

Document: G:\LEGIS\fis-16\hb481.docx Dick Hall-Sizemore