

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 405

Short Title: Reduce Number of Illegal Aliens in Jails. (Public)

Sponsors: Senators Blake; Berger of Rockingham, Bingham, Brock, Brown, Forrester, Goodall, Hartsell, Hunt, Jacumin, Preston, Stevens, and Tillman.

Referred to: Judiciary 1 (Civil).

February 28, 2007

A BILL TO BE ENTITLED

1 AN ACT REQUIRING THAT JAILORS IDENTIFY DETAINEES THAT ARE
2 ILLEGAL IMMIGRANTS AND REQUEST THAT THE UNITED STATES
3 DEPARTMENT OF HOMELAND SECURITY TAKE THEM INTO FEDERAL
4 CUSTODY; REQUIRING THAT THE GOVERNOR DEMAND THAT THE
5 FEDERAL GOVERNMENT DESIGNATE FEDERAL FACILITIES TO WHICH
6 ILLEGAL IMMIGRANTS MAY BE TRANSFERRED OR, IN THE
7 ALTERNATIVE, DEMAND THAT THE FEDERAL GOVERNMENT
8 REIMBURSE THE STATE FOR THE COST OF INCARCERATING ILLEGAL
9 IMMIGRANTS; AND INSTRUCTING THE ATTORNEY GENERAL TO
10 PURSUE LEGAL REMEDIES TO OBTAIN REIMBURSEMENT IN THE
11 EVENT THAT THE FEDERAL GOVERNMENT FAILS TO MEET THE
12 GOVERNOR'S DEMANDS.
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14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** Chapter 162 of the General Statutes is amended by adding a
16 new section to read:

17 "**§ 162-62. Identification of illegal immigrant detainees; transfer to federal**
18 **custody.**

19 (a) When a person is detained for any period in a county jail, local confinement
20 facility, district confinement facility, or satellite jail/work release unit because there is
21 reasonable suspicion or probable cause to believe the person has committed a felony or
22 an impaired driving offense, or when a person is in custody after final judgment, the
23 administrator or other person in charge of the facility shall determine whether the
24 detainee is an illegal immigrant. As used in this section, the term 'illegal immigrant'
25 means a person who has not been lawfully admitted to the United States or, if lawfully
26 admitted, whose lawful status has expired.

1 (b) If it is determined that a detainee is an illegal immigrant, the administrator or
2 other person in charge of the facility holding the detainee shall notify the United States
3 Immigration and Customs Enforcement Division of the United States Department of
4 Homeland Security and request that the detainee be taken into federal custody as soon
5 as practicable for processing in the federal immigration system.

6 (c) Nothing in this section shall be construed to deny bond to a person or to
7 prevent a person from being released from confinement when that person is otherwise
8 eligible for release."

9 **SECTION 2.** The Governor shall demand that the federal government
10 designate one or more federal facilities to which detainees that have not been lawfully
11 admitted to the United States may be transferred in the event that the United States
12 Department of Homeland Security fails to take a detainee into federal custody within 24
13 hours of being requested to do so pursuant to G.S. 162-62(b). If the government fails to
14 designate facilities for this purpose, the Governor shall demand that the federal
15 government reimburse the State for the entire cost of incarcerating these detainees. If
16 the federal government fails to meet the Governor's demands, the Attorney General
17 shall consider and pursue viable legal remedies to seek reimbursement from the federal
18 government.

19 **SECTION 3.** This act becomes effective December 1, 2007.