Assembly Bill No. 1282

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Passed the Assembly  September 9, 2019

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Chief Clerk of the Assembly

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Passed the Senate  September 5, 2019

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Secretary of the Senate

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This bill was received by the Governor this _____ day of ____________, 2019, at _____ o’clock ____м.

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Private Secretary of the Governor
An act to add Section 5026.5 to the Penal Code, relating to immigration enforcement.

LEGISLATIVE COUNSEL’S DIGEST

AB 1282, Kalra. Immigration enforcement: private transportation.

Existing law requires the Department of Corrections and Rehabilitation to implement and maintain procedures to identify inmates serving terms in state prison who are undocumented aliens subject to deportation. Existing law requires the department to cooperate with the United States Immigration and Naturalization Service by providing the use of prison facilities, transportation, and general support, as needed, for the purposes of conducting and expediting deportation hearings and subsequent placement of deportation holds on undocumented aliens who are incarcerated in state prison.

This bill would prohibit an officer, employee, contractor, or employee of a contractor of the department from facilitating or allowing entry to the department’s premises, or otherwise authorizing an employee or contractor of a private security company to arrest, detain, interrogate, transport, or take into custody, an individual in the department’s custody or on the department’s premises for immigration enforcement purposes. The bill would also prohibit those department representatives from coordinating with an employee or contractor of a private security company to interrogate parolees for immigration purposes and would prohibit those department representatives from transferring an individual in the department’s custody to another state prison within 90 days of the individual’s release date, except in an emergency or for special housing.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:
(1) In recent years, the United States Immigration and Customs Enforcement (ICE) has increasingly relied on private contractors to carry out its extensive enforcement operations in the State of California, including in prisons. Many of these arrests for immigration enforcement purposes in state prisons are conducted not by ICE officers, but by employees of private security corporations.

(2) ICE contracts with G4S Wackenhut to transport immigration detainees. G4S is the largest private security company in the world, with over one-half million employees in 125 countries. In 2017, the company’s annual revenue was $9.8 billion. G4S is involved in managing prison and detention facilities around the world, transporting immigrants for ICE, and electronic tagging and monitoring. G4S is the subject of numerous complaints of physical abuse, excessive force, and sexual abuse against immigrants, youth, and other detainees.

(3) In California state prisons, G4S employees often conduct arrests on their own. ICE officers are routinely absent when immigrants leave state custody and are handcuffed by G4S employees. The immigrants are then transported by G4S employees to an ICE field office, often hours away, where they are met by ICE officers for the first time.

(4) ICE’s use of private contractors to execute immigration arrest warrants at prisons violates the federal Immigration and Nationality Act and its implementing regulations because private contractors do not have authority to conduct immigration arrests (see 8 U.S.C. Sec. 1357; 8 C.F.R. Sec. 287).5

(5) Federal courts have found that detaining an individual for extra time on an ICE hold or detainer request violates Fourth Amendment protections guaranteed in the United States Constitution against unreasonable search and seizure because ICE holds are not based on a proper finding of probable cause or signed by a judge (Galarza v. Szalczik (2014) 745 F.3d 634, 645; Morales v. Chadbourne (2014) 996 F.Supp.2d 19; Vohra v. United States (2010) U.S. Dist. LEXIS 34363; Miranda-Olivares v. Clackamas Co. (2014) No. 3:12-cv-02317).

(b) It is the intent of the Legislature that this act shall not be construed as providing, expanding, or ratifying any legal authority for the Department of Corrections and Rehabilitation to participate in immigration enforcement.
SEC. 2. Section 5026.5 is added to the Penal Code, to read:

5026.5. (a) An officer, employee, contractor, or employee of a contractor of the Department of Corrections and Rehabilitation shall not do any of the following:

(1) Facilitate or allow entry to the department’s premises, or otherwise authorize an employee or contractor of a private security company to arrest, detain, interrogate, transport, or take into custody, an individual in the department’s custody or an individual on the department’s premises for immigration enforcement purposes.

(2) Detain an individual beyond the time period the individual would otherwise be eligible for release under state law for immigration enforcement purposes or on the basis of a hold or detainer request issued by an immigration authority, which includes, but is not limited to, United States Department of Homeland Security (DHS) Form I-247 and I-247A.

(3) Coordinate with an employee or contractor of a private security company to interrogate parolees for immigration enforcement purposes.

(4) Transfer an individual in the department’s custody to another state prison within 90 days of the individual’s release date, except in an emergency or for special housing.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Arrest” means taking a person into custody in a manner authorized by law.

(2) “Immigration authority” means any federal, state, or local officer, employee, or person performing immigration enforcement functions.

(3) “Immigration enforcement purposes” includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person’s presence in, entry or reentry into, or employment in, the United States.

(4) “Private security company” means a corporation or a business that provides armed or unarmed security services, including providing transportation, guard, and patrol services.
Approved ____________________, 2019

Governor