

1 HOUSE BILL NO. 428

2 INTRODUCED BY B. MERCER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A STATUTORY DUTY FOR PUBLIC SAFETY
5 OFFICERS TO ARREST INDIVIDUALS ALREADY IN CUSTODY WHO ARE THE SUBJECT OF
6 IMMIGRATION DETAINDER REQUESTS; AND LIMITING GOVERNMENTAL LIABILITY."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 NEW SECTION. Section 1. Immigration detainer requests -- arrest authority and duty to arrest
11 -- governmental immunity. (1) A public safety officer as defined in 44-4-401(2) who is in possession of an
12 immigration detainer request issued by a federal immigration agency shall arrest a person who is already in
13 custody and the subject of an immigration detainer request.

14 (2) As used in this section, the following definitions apply:

15 (a) (i) "Federal immigration agency" means the United States department of justice, the United States
16 department of homeland security, and any division, agency, or other component of either of those departments,
17 including but not limited to United States immigration and customs enforcement, United States customs and
18 border protection, United States citizenship and immigration services, and any successor department, division,
19 agency, or other component.

20 (ii) The term includes officials, officers, representatives, agents, and employees.

21 (b) "Immigration detainer request" means a written or electronic request issued by a federal
22 immigration agency to detain and maintain control of an alien.

23 (3) In executing an arrest pursuant to an immigration detainer request, a public safety officer shall:

24 (a) comply with, honor, and fulfill any request made in the detainer request provided by the federal
25 government; and

26 (b) inform the person to whom the immigration detainer request applies that the person is being held
27 pursuant to an immigration detainer request issued by a federal immigration agency.

28 (4) A public safety officer is not required to arrest or detain a person who has provided proof that the

1 person is a citizen of the United States or that the person has lawful immigration status in the United States.

2 (5) The state, counties, cities, towns, and all other local governmental entities have immunity from any
3 suit relating to the provisions of this section.

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5 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
6 integral part of Title 44, and the provisions of Title 44 apply to [section 1].

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8 NEW SECTION. Section 3. Two-thirds vote required. Because [section 1] limits governmental
9 liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each
10 house of the legislature for passage.

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