



Rep. Daniel J. Burke

**Filed: 3/29/2011**

09700HB0929ham001

LRB097 03748 RLC 53562 a

1 AMENDMENT TO HOUSE BILL 929

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 929 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Article 124C as follows:

6 (725 ILCS 5/Art. 124C heading new)

7 ARTICLE 124C. SMART ENFORCEMENT LAW

8 (725 ILCS 5/124C-1 new)

9 Sec. 124C-1. Short title. This Article may be cited as the  
10 Smart Enforcement Law.

11 (725 ILCS 5/124C-5 new)

12 Sec. 124C-5. Preamble and findings.

13 (a) The State of Illinois is committed to upholding our  
14 criminal laws and in imposing appropriate penalties for those

1 convicted of criminal offenses. In the case of noncitizens of  
2 the United States, the consequences of criminal convictions may  
3 include removal from the United States by U.S. Immigration and  
4 Customs Enforcement (ICE).

5 (b) In 2007, in enacting Public Law 110-161, 121 Stat.  
6 1844, 2365, Congress provided initial appropriations to  
7 "improve and modernize efforts to identify aliens convicted of  
8 a crime, sentenced to imprisonment, and who may be deportable,  
9 and remove them from the United States once they are judged  
10 deportable". ICE has used this funding to create the "Secure  
11 Communities" program, through which ICE receives and reviews  
12 fingerprints that local police take for criminal suspects upon  
13 booking.

14 (c) Illinois participates in the "Secure Communities"  
15 pursuant to a Memorandum of Agreement entered into by ICE and  
16 the Illinois State Police on November 2, 2009. ICE is  
17 implementing the program in counties throughout Illinois and  
18 intends to cover the entire nation by 2013.

19 (d) Contrary to the goal, stated by Congress and affirmed  
20 by ICE, of identifying and removing noncitizens convicted of  
21 crimes, "Secure Communities" has largely been identifying  
22 individuals with no criminal convictions for ICE arrest and  
23 removal. Through February 2011, 46.5% of individuals arrested  
24 by ICE under "Secure Communities" had no convictions.

25 (e) "Secure Communities" imposes additional costs upon  
26 county jails and other local law enforcement by requiring that

1 the jails hold individuals who may otherwise be released. The  
2 costs of these holds are borne by local taxpayers.

3 (f) By subjecting individuals with no criminal convictions  
4 to removal, "Secure Communities" disrupts families and  
5 communities, encourages racial and ethnic profiling, burdens  
6 taxpayers, and poses harm to our State as a whole.

7 (g) Because the "Secure Communities" program is straying so  
8 far from its stated goals, at significant cost to families and  
9 communities, the State must monitor and review the impact of  
10 this program to determine whether it is indeed benefiting the  
11 people of Illinois.

12 (h) ICE itself has been unclear and uncertain as to whether  
13 counties and local jurisdictions can choose not to participate  
14 in "Secure Communities", even if they believe that the program  
15 would harm their communities. The State should accordingly  
16 enable counties and local jurisdictions to refuse to  
17 participate should they choose to do so.

18 (725 ILCS 5/124C-10 new)

19 Sec. 124C-10. Participation in the U.S. Immigration and  
20 Customs Enforcement "Secure Communities" Program.

21 (a) This Section pertains to the U.S. Immigration and  
22 Customs Enforcement (ICE) "Secure Communities" Program, in  
23 which Illinois participates pursuant to a "Memorandum of  
24 Agreement Between U.S. Department of Homeland Security  
25 Immigration and Customs Enforcement and Illinois State Police"

1 entered into on November 2, 2010.

2 (b) The Illinois State Police and other agencies of the  
3 State of Illinois, as appropriate, shall create a means by  
4 which counties and local jurisdictions seeking not to  
5 participate in the "Secure Communities" program will be able to  
6 withhold their participation.

7 (c) (1) Any county participating in the "Secure  
8 Communities" program shall submit to the Illinois State Police,  
9 on the first day of each month, the following information:

10 (A) the number of detainers issued to the county's jail  
11 during the preceding calendar month by U.S. Immigration and  
12 Customs Enforcement (ICE) requesting that the jail hold an  
13 individual until ICE takes that individual into its  
14 custody;

15 (B) with respect to each of the individuals subject to  
16 such detainers:

17 (i) the charge or charges for which he or she was  
18 arrested;

19 (ii) whether the arrest occurred after a traffic  
20 stop, after a Terry stop, pursuant to an arrest  
21 warrant, or under other circumstances relating to  
22 warrantless arrests;

23 (iii) the charge or charges if any for which he or  
24 she was arraigned and prosecuted;

25 (iv) the disposition of his or her criminal charge  
26 or charges described in clause (iii) of this paragraph

1           (1), and the date of this disposition;

2           (v) whether bond was posted for the individual, and  
3           if so, the date on which bond was posted;

4           (vi) the length of time (in days) he or she was  
5           held in the jail's custody;

6           (vii) whether ICE took him or her into custody, and  
7           if so, the date on which ICE took custody;

8           (viii) the cost incurred by the county for holding  
9           each individual subject to the ICE detainer beyond the  
10           date on which bond was posted or he or she otherwise  
11           became subject to release, and whether the county  
12           requested reimbursement for any federal agency to  
13           cover expenses arising from the ICE detainees;

14           (ix) his or her national origin, if voluntarily  
15           reported by the individual, provided that nothing in  
16           this reporting requirement shall be construed to  
17           require that the county determine or inquire into the  
18           national origin of any such individual, or to authorize  
19           any law enforcement agencies to compel such individual  
20           to provide this information;

21           (x) whether the detainer arose pursuant to the  
22           "Secure Communities" program, the ICE Criminal Alien  
23           Program, an "immigrant alien query" requested by the  
24           arresting law enforcement agency, or other means.

25           Reporting as required by this subsection (c) shall begin on  
26           the first day of the first month following the effective date

1 of this Article. In addition to this monthly reporting  
2 requirement, each county shall also report to the Illinois  
3 State Police, no later than 60 days after the effective date of  
4 this amendatory Act of the 97th General Assembly, the  
5 information described in this subsection (c) for the period  
6 starting on the date when the county began its participation in  
7 "Secure Communities" and ending on the effective date of this  
8 Article. The Illinois State Police shall maintain the  
9 information reported under this subsection (c) for no less than  
10 7 years after the date on which these data are submitted.

11 (2) Based on the data reported under paragraph (1) of this  
12 subsection (c), such other data as may be available from ICE,  
13 input from local immigrant communities, and other relevant  
14 information, the Illinois State Police shall conduct annual  
15 evaluations of:

16 (A) the efficacy of the "Secure Communities" program in  
17 meeting its stated goal of identifying noncitizens  
18 convicted of crimes (in particular compared to the rates at  
19 which the program identifies noncitizens without criminal  
20 convictions), and

21 (B) the costs of such programs to the State and to  
22 local law enforcement agencies.

23 The first period for which the Illinois State Police shall  
24 conduct an evaluation shall be the period starting November 2,  
25 2009, and ending on the one-year anniversary of the effective  
26 date of this Article. The Illinois State Police shall issue a

1 report of its evaluation within 60 days of the end of this  
2 period. The Illinois State Police shall conduct subsequent  
3 evaluations for each one-year period beginning on the end date  
4 of the immediate prior evaluation period and ending on the next  
5 anniversary of the effective date of this Article, and issue a  
6 report of its evaluation within 60 days of the end of the  
7 evaluation period.

8 (725 ILCS 5/124C-15 new)

9 Sec. 124C-15. Prohibition on use of State funds. The State  
10 of Illinois shall not use any State funds for the purpose of  
11 facilitating the removal by U.S. Immigration and Customs  
12 Enforcement (ICE) of any individual who has not been convicted  
13 of a criminal offense.

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.".