

FACT SHEET

June 24, 2016

## HB 100: Local Government Immigration Compliance

In 2015, the General Assembly passed HB 318, which said that “government officials” could not accept either consular IDs or local/community IDs as acceptable forms of identification. The bill also said that cities and counties could not have policies prohibiting their law enforcement officers from gathering information about people’s immigration status. This harmful bill made law enforcement and government officials’ jobs harder, and made communities less safe because victims and witnesses of crime would be less willing to cooperate with the police. Now, the General Assembly is doubling down by adding confusing “enforcement provisions” to the law.

### PART 1: Requires the Clerk of Court to Keep Public Records of those Excused from Jury Duty for Citizenship Reasons

- States that if a person asks to be removed from jury duty because he or she is not a U.S. citizen, that the Clerk of Court must keep a record of that excusal, and that such records will be public records

### Part 2: Removes the right of law enforcement to use the local or community ID to determine a person’s residency or identity.

- Last year’s bill HB 318 had allowed law enforcement to use a local or organizational ID (such as the Faith Action ID) to determine a person’s identity or residency. This amendment takes that right away.

### PART 3: Creates two alternative complaint processes, with draconian penalties to be used against cities or counties who are deemed not to be complying with “state immigration laws.”

- **What are these so-called “state immigration laws”?**
  - “State immigration laws” are defined as the ID provisions of HB 318 (government officials prohibited from accepting local or consular IDs), and the “sanctuary city” provisions of HB 318 (cities and counties can’t prohibit their law enforcement officials from gathering immigration status information).
  - These laws were rushed through the legislature at the end of the session in 2015 and there are many unanswered questions as to how these laws should be interpreted.
- **How do the complaint processes work?**
  - Attorney General (AG) Complaint Process:
    - Any “person” may complain, and anonymous complaints are allowed. The person does not have to provide a social security number or notarized statement, and that person’s complaint is kept confidential.
    - The AG must investigate all complaints and make a determination as to

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whether the city or county is in compliance.

Court complaint:

- Alternatively, a private individual who believes the law is being violated can file a law suit asking the court to determine whether the city or county has violated the law.
- **What are the penalties??**
  - If the Attorney General finds that a city, county, or law enforcement agency is not following these laws, the state will take away funding used to build roads and schools.
  - In response to a private party's law suit, a court can issue an order requiring the city or county to comply, and can require the losing city or county to pay the attorney's fees of the person who brought the law suit.
- **What happens if a city/county does not comply with E-verify laws to verify people's work authorization?**
  - The city or county can also lose funding for school construction and roads.

### Why is the Bill Harmful?

- The bill takes away a vital tool for law enforcement officers to identify all people with whom they come into contact – witnesses, suspects, or even missing or unidentified persons. Community and law enforcement worked together in Greensboro and other communities in support of common sense local identification programs, which assist police in preventing and solving crimes.
- The “enforcement provisions” are costly, unworkable, and unfair. They will create more litigation in the courts, and add additional duties to the Attorney General's office with no funding provided for that work.
- HB 318 created far-reaching duties and prohibitions on local law enforcement and governments. Under the anonymous complaint provision of SB 868, the Attorney General, and not a court, can decide whether a city or county's funding will be taken away.
- A city or county could lose significant funds supporting critical services such as schools and roads due to an inadvertent error on the part of a city or county employee.
- Immigration law is complex, and very few people understand it well. With SB 868, any person can make a complaint with the Attorney General or the court without truly understanding which agencies have responsibility to perform different duties related to immigration. Because immigration law is complex federal law, its enforcement continues to be the responsibility of the federal government. A private individual who does not understand the responsibilities of various agencies may make baseless complaints that the Attorney General will be required to investigate, wasting time and resources.
- Rather than doubling down on HB 318 by adding confusing and unworkable enforcement provisions, HB 318 should be repealed.