



Legislation Text

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CITY of ALBUQUERQUE
TWENTY SIXTH COUNCIL

COUNCIL BILL NO. C/S R-24-45 ENACTMENT NO. _____

SPONSORED BY: Brook Bassan and Renée Grout

RESOLUTION

C/S Amending The City Of Albuquerque Immigrant Friendly Policy (Bassan, Grout)

WHEREAS, the Tenth Amendment of the Constitution of the United States recognizes the sovereign status of the state and their political subdivisions and precludes the federal government from attempting to compel state and local governments, either directly or by its use of threats to withhold federal funding, to assist the federal government in enforcing federal laws, including immigration laws; and

WHEREAS, Article VIII of the City Charter states that, "The Council shall preserve, protect and promote human rights and human dignity . . . and shall prohibit discrimination on the basis of race, color, religion, sex, national origin or ancestry, age or physical handicap"; and

WHEREAS, the Albuquerque City Council reaffirmed its commitment to immigrant integration and inclusion exemplified in R-00-151 and M-17-4, which state that the Council welcomes and encourages immigrants to live, work, and study in Albuquerque and to participate in community affairs, and recognizes immigrants for their important contributions to our culture and economy; and

WHEREAS, R-00-151 states, and M-17-4 affirms, that the "City shall not discriminate on the basis of a person's national origin and will treat all persons with respect and dignity, regardless of immigration status"; and

WHEREAS, the Council further reaffirmed its support for immigrant integration and inclusion by enacting R-18-7, the Immigrant Friendly Policy; and

WHEREAS, the Council reaffirms and declares that Albuquerque is a safe place for immigrants and recognizes the importance of immigrants' many contributions to the social, cultural, intellectual, and economic fabric of the City; and

WHEREAS, the City will continue to uphold these longstanding values while balancing the need for public safety policies that effectively manage crime rates and protect all residents in the City of Albuquerque; and

WHEREAS, most residents in the City, including the vast majority of immigrants, are law-abiding citizens and are, when crimes occur, themselves the victims of crime, however, when any individual has committed a serious crime, they should be held accountable, regardless of immigration status; and

WHEREAS, the public safety benefit of cooperation between law enforcement authorities is real; when local police and the United States Immigration and Customs Enforcement agency are able to share information, known criminals who are causing problems in our community can be identified and held accountable instead of returned to the streets; and

WHEREAS, policies that shield criminals from accountability and allow them to remain in our communities threaten the safety of all residents of the City.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. C/S R-18-7 (Enactment No. R-2018-018), The Immigrant Friendly Policy, is hereby amended as follows:

“SECTION 1. T~~hat~~he City Council reaffirms the City of Albuquerque’s status as an “Immigrant Friendly City” and welcomes and encourages immigrants to live, work and study in Albuquerque and to participate in community affairs, and recognizes immigrants for their important contributions to our culture and economy.

SECTION 2. T~~hat~~he City Council reaffirms its commitment to policies established under R-00-151 including but not limited to its commitment to “treat all persons with respect and dignity, regardless of their immigration status” and that “to the fullest extent allowed by federal an state law, immigrants who live within the city limits of Albuquerque and their families shall have access to all City services and programs.”

1. The City, or any third party on its behalf, shall not:

a. Make or initiate any inquiry regarding, or collect in any way information regarding, the citizenship, immigration status, place of birth, religion, or national origin, of any person;

b. Collect, or make or initiate any inquiry regarding an individual's social security number except as required to: (1) determine eligibility for a federal or state benefit or program administered by the City conditioned on verification of such status; (2) in order to determine eligibility for City employment; (3) in order to carry out a necessary function of City Government; or (4) as otherwise required by law; or

c. Collect, or make or initiate any inquiry regarding an individual's Individual Tax Identification Number (ITIN) except where necessary for purposes of executing a city contract with the person or the person's company or employer.

2. Paragraph 1 above limits the information the City will collect and store; where the City is required by law or policy to provide information to any person or agency, it can only provide that information which it has collected and stored. The City shall not disclose information that the City currently possesses regarding place of birth, religion, or national origin, nor information collected under the exceptions stated above in Paragraph 1 absent a valid judicial warrant for such information or as otherwise required by law.

3. The City shall not use any City resources, including but not limited to moneys, equipment, personnel, or City facilities, nor permit any City facility to be used for the enforcement or to assist in the enforcement of federal immigration law by any of the following:

a. Detecting, apprehending, identifying, investigating, arresting, detaining, or continuing to detain a person based on the individual's immigration status or the belief that the person has committed a violation of immigration law;

b. Arresting, detaining or continuing to detain a person in response to, or honoring in any other way, any immigration detainer, or federal administrative warrant that is based solely on a violation of federal immigration law; or

c. Enforcing any federal program requiring the registration of individuals on the basis of religious affiliation or ethnic or national origin.

4. The City shall refuse access to all city-operated, non-public areas of City property (including but not limited to the Prisoner Transport Center) by federal immigration agents who are requesting access for the purpose of enforcing federal immigration law unless presented with a judicial warrant issued specifically requiring such access.

[5. Paragraphs 3 and 4 above prohibit the use of City resources for the purpose of enforcement or to assist in the enforcement of federal immigration law and prohibit providing federal immigration agents access to City facilities. Paragraphs 3 and 4 shall not apply when an individual has been charged with: a felony involving violence; human trafficking; or trafficking of controlled substances. In such circumstances, the City shall contact and cooperate with federal immigration authorities regarding the individual. The Albuquerque Police Department shall develop guidelines for administering this paragraph that include at least the following provisions: mandatory review and approval by a sergeant or higher rank before the City may contact and cooperate with federal immigration authorities; and tracking of individual demographics, charges, outcomes, and all officers involved.]

[6. 5.] The City Council supports the equal treatment of all persons and states that all person[s] who live within the City should have full access to all city services with respect and dignity, including public safety services and programs, regardless of their race, disability, national origin, gender identity, religion, sex, sexual orientation, ethnicity, economic or immigration status (in addition to any other protected classes under local, state, or federal law).

[7. 6.] All City departments are directed to review current City policies, procedures, and practices to ensure they are in accordance with this Resolution and report back to the Council within six months of the passage of this resolution. The City's Office of Equity and Inclusion is responsible for monitoring compliance with this Resolution. City staff may identify and recommend policies and proposals that would serve to implement and enhance the City's immigrant friendly status.

[8. 7.] The CAO shall communicate these policies to all City employees within 30 days of the passage of this resolution. The CAO shall develop and publicly post a notice of all known instances where information is required to be collected by the City pursuant to any of the exceptions in paragraph 1 of this Section, and that advises of other instances where the provisions of this resolution may not fully apply in dealings with the City or when using a City facility, if any.

[9. 8.] Nothing in this resolution shall be construed or implemented to conflict with any valid and enforceable duty or obligation imposed by a warrant, court order or any federal or other applicable law."

SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or

phrase of this Resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution. The Council hereby declares that it would have passed this Resolution and each section, paragraph, sentence, clause, word, or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 3. COMPILATION. SECTION 1 of this Resolution shall amend, be incorporated in and made part of the Code of Resolutions of Albuquerque, New Mexico, 1994, as a new Article 12 in Chapter 3, titled: "Immigrant Friendly Policy."