

New York Dignity Not Detention Bill Frequently Asked Questions

1. What does immigration detention look like in New York?

Currently, ICE lists seven existing detention facilities in New York, though it appears an eighth jail is used for detention, and ICE has only used five of those facilities in 2020-2021.¹ The five facilities currently used are Buffalo Federal Detention Facility, Orange County Correctional Facility, Clinton Correctional Facility, Rensselaer County Correctional Facility, and Chautauqua County Jail. The additional three facilities listed on ICE's website are Albany County Correctional Facility, Allegany County Jail, and Wayne County Jail.² As of 2/25/21, across the five currently used facilities, 344 immigrants are detained daily on average.³ However, ICE is constantly seeking ways to detain more immigrants. In October 2020, ICE issued a Request for Information seeking to add detention sites in New York within a 60-mile radius of the ICE New York City field office.⁴ In a 2019 report, advocates estimated that there are roughly 76 facilities in New York that ICE can use to detain New Yorkers.⁵ New York County jails that contract with ICE receive a per diem payment per immigrant that they detain on behalf of ICE. For example, Orange County Jail receives \$133.90 per day per person.⁶

2. What is the New York Dignity Not Detention bill?

The New York Dignity Not Detention bill is legislation that seeks to end immigration detention contracts in New York state.

3. What does the bill do?

The bill gets New York out of the business of immigration detention. Specifically, the bill does 3 things:

1. It prohibits New York governmental entities from entering into immigration detention contracts for the purpose of immigration detention and prohibits New York governmental entities from receiving any payments related to immigration detention.
2. It prohibits New York governmental entities from renewing any existing immigration detention contracts.

¹See TRAC Immigration, *Detention Facilities Average Daily Population*, current as of 1/22/2021 ([link](#)); ICE, *Detention Management*, Detention FY 2021 YTD, FY 2020 Detention Statistics ([link](#))

²ICE, *Detention Management*, Detention FY 2021 YTD, FY 2020 Detention Statistics ([link](#))

³<https://trac.syr.edu/immigration/detentionstats/facilities.html>

⁴<https://www.northjersey.com/story/news/new-jersey/2020/10/27/ice-scoping-out-new-detention-center-locations-nj-ny-and-pa/6041046002/>

⁵<https://thenyc.pi.bypronto.com/2/wp-content/uploads/sites/2/2019/03/State-of-Immigration-Detention-of-NYers-v5.pdf>

⁶<https://documentedny.com/2018/11/29/assembly-members-slam-orange-county-jail-over-immigrant-detention-conditions/>

3. It requires any New York governmental entities with existing immigration detention contracts to exercise the termination provision in the contract.

4. Why is this bill important?

Immigration detention is inhumane, dangerous, undermines public safety, and acts as a threat to New Yorkers all over the state. Immigration detention harms not only the individuals detained but also their loved ones and communities. New York's contracts to profit from the detention of immigrants fuel a larger deportation machine in which people are separated from their loved ones and forced into cages. The COVID-19 pandemic has highlighted the dangers of immigration detention. Correctional officers are often observed not wearing personal protective equipment (PPE) and social distancing is impossible.⁷ The conditions are extremely cold and the food is inedible, sometimes rotten resulting in detained people vomiting and becoming sick.⁸ When people inside experience COVID-19 symptoms, they are often told to wait 2-5 days as their symptoms worsen.⁹ These conditions are indicative of the general neglect and torture people inside immigration detention face.

5. How is this different from the NY For All bill?

The NY For All bill broadly prohibits state and local officers from enforcing federal immigration laws, funneling people into ICE custody, and sharing sensitive information with ICE. It prohibits ICE from entering non-public areas of state and local property without a judicial warrant. It also ensures that people in custody are given notice of their rights before being interviewed by ICE, and starts the process of limiting ICE access to state information databases.¹⁰

The NY Dignity Not Detention bill is targeted at immigration detention itself by (1) prohibiting New York governmental entities from entering into immigration detention contracts or receiving any payments related to immigration detention; (2) prohibiting New York governmental entities from renewing any existing immigration detention contracts; and (3) requiring any New York governmental entities with existing immigration detention contracts to exercise the termination provision in the contract. The NY For All bill prohibits information sharing between ICE and state officials whereas the NY Dignity Not Detention bill prohibits immigration detention contracts in New York. The two bills work together to create a safer New York.

6. Why should we end immigration detention contracts?

⁷ See Orange Conditions Report, https://drive.google.com/file/d/1yN_M4ehG9lk_cAkkYCxYQaFbephRzHvI/view?usp=sharing

⁸ See Orange Conditions Report

⁹ See Orange Conditions Report

¹⁰ See NYCLU, "The New York For All Act," <https://www.nyclu.org/en/campaigns/new-york-all-act>.

Immigration detention enables anti-immigrant policies. Anti-immigrant policies—including raids in sanctuary cities and family separation at the border—rely on the availability of detention beds. When New York devotes its resources to jailing immigrants for ICE, it is an active participant in these policies. Immigration detention is deadly. More people died in immigration detention this past fiscal year than in any year since 2005. Ending immigration detention in New York will help protect Black and Latinx communities since immigration detention disproportionately harms Black and Latinx communities. Additionally, ending immigration detention in New York will further the broader movement to decarcerate and end immigration detention nationwide. Immigrant rights groups support the end of immigration detention nationwide and stand in solidarity with broader movements to decarcerate. No one should profit off of the incarceration of human beings. Ending ICE contracts locally sends a message to the federal government that we want no part in the incarceration of immigrants and in conjunction with similar movements nationwide, such as #CommunitiesNotCages and #CloseTheCamps, will force the federal government to choose more humane approaches to immigration policies. By ending its contracts with ICE, New York can stand up for immigrant communities and stand against the racist anti-immigrant policies that depend on detention. It can reduce ICE’s capacity to conduct arrests and operations locally. It can save lives by reducing the overall numbers of people in the jail. It can start to make up for the decades of harm that immigrants have suffered behind its bars.

Also, ending immigration detention contracts may drive down local immigration arrests. This impact is difficult to measure given ICE’s lack of transparency as to what prompts local operations. The availability of local bed space is believed to be one of several factors that may drive what ICE calls “collateral arrests.” These are arrests of individuals who are not the targets of operations, but are identified during the course of the operations. Without sufficient bed space locally, ICE may have less incentive to conduct collateral arrests in the region or may even lower the number of people it targets in a given operation. Some advocates in California have observed this effect as several facilities closed in the region.¹¹ Studies of jail construction in the criminal context also indicate that the availability of bed space may influence increasing incarceration rates.¹² It is more costly for ICE to transport someone to a facility far away, and evidence shows

¹¹ “The end of the WCDF contract led to a reduction in local immigration enforcement activity. We don’t have solid data on this, but anecdotal evidence suggests that fewer people from Northern California are now being detained. ICE itself has admitted as much, pointing to reductions in bed space as a “challenge” to their operations. If true, it suggests closing detention facilities doesn’t just redirect immigration detention; it actually bites away at it. Less bed space makes it harder to house, detain, and deport people.” Interfaith Movement for Human Integrity, Lessons from the ICE Detention Contract Termination in Contra Costa County, CA 4 (Dec. 2019) <https://www.im4humanintegrity.org/19/12/lessons-from-the-ice-detentioncontract-termination-in-contra-costa-county-ca/>.

¹² “Once jail capacity expands in these places, inertia among key institutional players (law enforcement, prosecutors, judges, etc.) may bias the local justice system to simply use a now more readily available resource: jail beds. National data suggests this possibility. Of the 216 county jails constructed between 1999 and 2005—a time of declining crime rates—the median jail population rose 27 percent after construction was completed.⁸⁴ A quarter of the new jails more than doubled in size by 2006, and the facilities had maintained their increased populations by 2013.” Chris Mai et al., Vera Institute, Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead 27 (Nov. 2019), <https://www.vera.org/downloads/publications/broken-ground-jailconstruction.pdf>.

that, during times of budget constraints, ICE will release individuals so long as there is no mandatory minimum payment they need to provide the local jailer.¹³

There have been times when border enforcement has also driven bed space issues, such as periods during which many asylum seekers were sent from the Southern border to New Jersey facilities and less space was available for people targeted by local operations. ICE itself takes the position that border enforcement has diverted its resources from interior enforcement and driven down its interior arrests and detentions, demonstrating that capacity concerns motivate its decision making.¹⁴

One can assume that even in the absence of local bed space, some individuals will continue to be targeted by ICE for arrest and transferred to other locations. This is particularly true for transfers from criminal custody, and also true for what ICE calls “targeted operations” where ICE goes to an individual’s home or workplace specifically with the intent to arrest that individual. Thus, it is important that local and state efforts to reduce ICE detention are coordinated regionally, and are part of larger efforts to limit and ultimately end ICE operations.

7. Are other states considering similar legislation to end ICE detention contracts?

Similar legislation was successfully passed in California ([SB 29, AB 103](#)), Washington ([SB 5497](#)), and Illinois ([HB 2040](#)), and a similar bill is pending in Maryland ([SB 478](#)) and was recently introduced in New Jersey ([A5207](#)).

¹³ Detention Watch Network and Center for Constitutional Rights, *Banking on Detention: Local Lockup Quotas and the Immigration Dragnet 6* (2015), <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20CR%20Banking%20on%20Detention%20Report.pdf>

¹⁴ “While ERO’s targeted immigration enforcement operations focus on the interior of the country, changes in migration flows at the Southwest Border directly impact nearly every area of the agency’s operations, including interior enforcement, detention capacity, transportation, removals, personnel, and overall expenditures.... This sustained increase in migration has stretched resources across the U.S. government, requiring ERO to redirect its enforcement personnel and 18 detention capacity to support border enforcement efforts as well as a significantly increased detained population. This has negatively impacted the number of ERO’s interior arrests, as well as the percentage of removals stemming from such arrests, and has also changed the overall composition of ICE’s detained population. Because much of ERO’s limited detention capacity has been dedicated to housing aliens arrested by CBP, many of whom are subject to mandatory detention under U.S. immigration laws regardless of criminality, the increase in border apprehensions has resulted in a lower overall percentage of ICE detainees who have a criminal history (the vast majority of those arrested by ERO in the interior have criminal convictions or pending criminal charges, while those arrested by CBP at the border often do not have any known criminal history).” U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report 3-4, <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.