

SHB 1547 - H AMD 221

By Representative Santos

FAILED 03/02/2011

1 On page 1, line 10, after "of" strike "deportation" and insert
2 "~~((deportation))~~ removal"

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4 On page 1, line 13, after "for" strike "deportation" and insert
5 "~~((deportation))~~ removal"

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7 On page 1, line 14, after "confinement" insert "if the sentencing
8 court has issued a conditional release order under subsection (2) of
9 this section"

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11 On page 2, line 12, after "~~((+3))~~" insert "No offender may be
12 released under this section unless the sentencing court has issued an
13 order for conditional release pursuant to this subsection (2).

14 (a) For an alien offender in the custody of the department on or
15 after the effective date of this section who is subject to a final
16 order of removal or exclusion, the sentencing court, pursuant to a
17 request from the department, shall issue an order conditionally
18 releasing the offender to the immigration and customs enforcement
19 agency if the department has given the offender: (i) Thirty days
20 notice that the department intends to seek conditional release to the
21 immigration and customs enforcement agency; and (ii) reasonable access
22 to communicate with consular officials, legal services organizations,
23 and counsel of the offender's choice, at no expense to the state.

24 (b) For an alien offender sentenced on or after the effective date
25 of this section, the sentencing court shall issue an order permitting
26 the department to conditionally release the offender to the
27 immigration and customs enforcement agency upon entry of a final order

1 of removal. Prior to issuing the order, the sentencing court shall
2 determine that defense counsel has advised the offender of the right
3 to contest removal and the availability of avenues of relief from
4 removal that he or she may be entitled to pursue before immigration
5 authorities. If the offender is proceeding pro se, the court shall
6 advise the offender that the offender may be subject to conditional
7 release to the immigration and customs enforcement agency, that the
8 offender has the right to contest removal, and that the offender may
9 be entitled to relief from removal.

10 (3) No offender may be released under this section unless the
11 immigration and customs enforcement agency confirms to the department
12 that it can and will implement the order of removal.

13 (4)"

14
15 Renumber the remaining subsections consecutively and correct any
16 internal references accordingly.

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18 On page 2, line 19, after "for" strike "deportation" and insert
19 "~~((deportation)) removal"~~

20
21 On page 2, line 31, after "for" strike "deportation" and insert
22 "~~((deportation)) removal"~~

23
24

EFFECT:

(1) Requires a court order for the Department of Corrections (DOC) to conditionally release an alien offender for removal.

(2) Requires that the court, pursuant to a request from the DOC, issue an order for conditional release if the DOC has given the offender 30 days notice that DOC intends to seek conditional release and if the offender has had reasonable access to communication with consular officials or legal counsel of the offender's choice, at no expense to the state.

(3) Requires the sentencing court to issue an order permitting the DOC to conditionally release an offender to the Immigration and

Customs Enforcement Agency(ICE) upon entry of a final order of removal.

(4) Requires, as a condition of issuing an order for conditional release after entry of a final order of removal, that the court determine that an offender has been advised of his or her rights regarding relief from removal, whether the offender is represented by counsel or is pro se.

(5) Prohibits the conditional release of an offender unless ICE confirms to DOC that it can and will implement the order of removal.

(6) Changes "deportation" to "removal" for consistency with federal law.

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