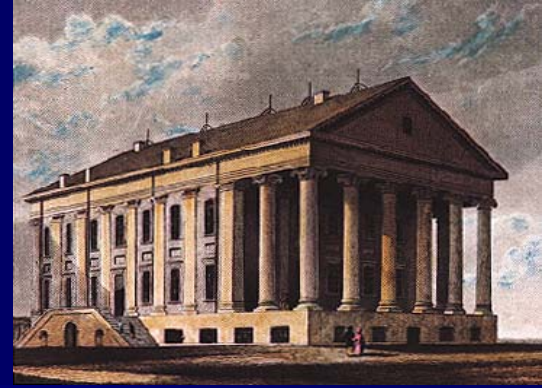


# Virginia State Crime Commission

## Illegal Immigration Task Force

October 16, 2007

# Discussion Topics



- Members invited to make recommendations.
- Thirty-two proposals received.
- Categories:
  - Role of the Federal Government (1)
  - Data Collection (8)
  - Education (2)
  - Law Enforcement & Public Safety (7)
  - Agreements w/ ICE – 287(g) (4)
  - Role of Jails & Prisons (6)
  - Identification Documents (2)
  - Employment of Illegal Immigrants (1)
  - Documentation for Certain Benefits (1)

# Role of the Federal Government



## ■ # 1 – Resolution

- Reflecting 1) immigration law is the responsibility of the federal gov't., 2) federal law preempts most state measures, 3) the federal gov't. has failed to address the issue, and 4) the limited state and local measures that are not preempted will be of limited effect unless and until I.C.E. is provided with the resources needed to do its job.
- Proposed Amendment: Encourage Congress to withhold “most favored nation” trade status and foreign aid from nations that will not accept return of criminal illegal immigrants.
- Proposed Amendment: Ask that Congress clarify federal law to remove the prohibition for state and local authorities to act in certain situations.

# Data Collection



## ■ # 2 – Local Inmate Data System

- Include a field requiring confirmation from I.C.E. on the immigration status of any inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is unknown.

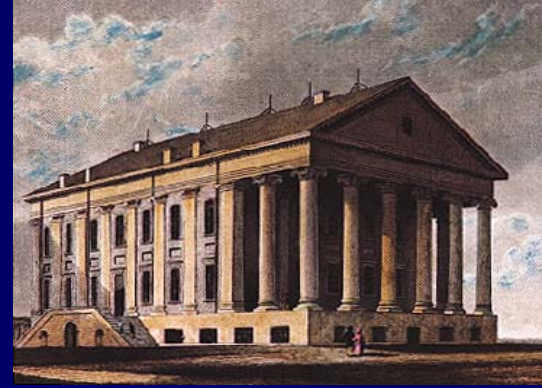
## ■ # 3 – Department of Corrections

- Include a field requiring confirmation from I.C.E. on the immigration status of any inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is unknown.

## ■ # 4 – Department of Corrections – SSN

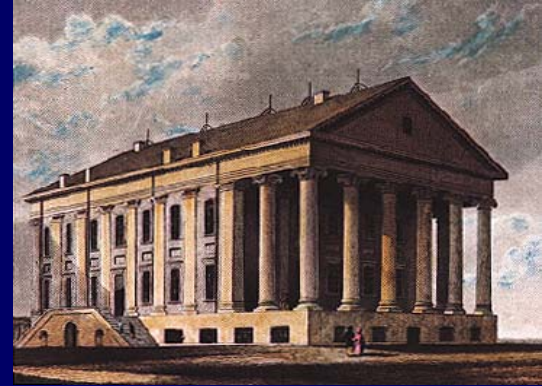
- DOC should verify the validity of inmates' social security numbers and omit from its records those discovered to be false.

# Data Collection



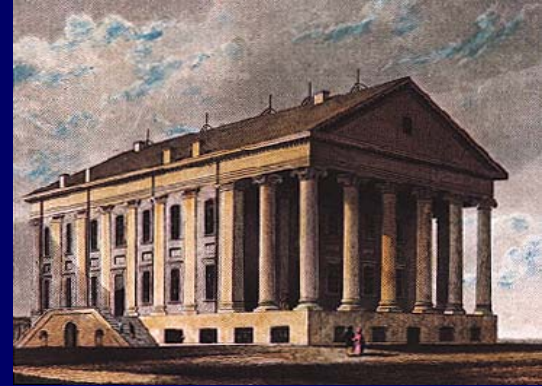
- **# 5 – Immigration & Customs Enforcement**
  - Ask I.C.E. to maintain data on:
    - The # of inquiries made by state and local law enforcement agencies to its L.E.S.C.,
    - The # of these inquiries that are found to be illegal immigrants, legal permanent residents, nonimmigrants, etc.,
    - The # of detainers issued for those found to be illegal immigrants, and
    - The # of deportations that result from the detainers issued.
  - **Proposed Amendment**: Include that I.C.E. provide the data to Virginia upon request.

# Data Collection



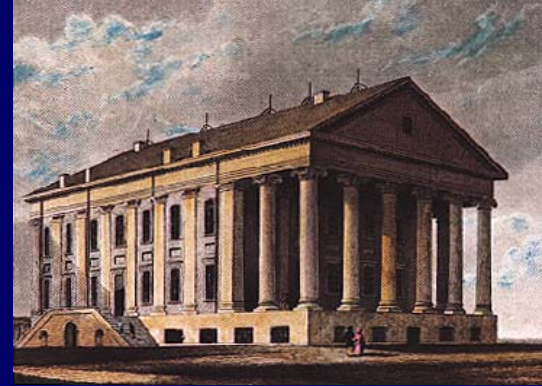
- **# 6 – Cross Check LIDS Against NCIC/LESC**
  - The information within LIDS for all inmates currently in jails should be cross checked against the illegal immigrant databases of the NCIC and the LESC.
- **# 7 – VA Criminal Illegal Alien Database**
  - Create a VA criminal illegal alien database, for law enforcement purposes only, within the Virginia Criminal Information Network, to contain information obtained by State Police pursuant to VA. Code §§ 19.2-294.2 and 53.1-218 and reported on Suspected Alien Reporting Forms.

# Data Collection



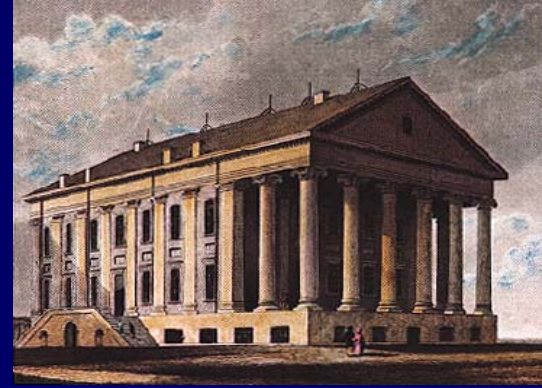
- # 8 – Crimes by Illegal Immigrants – Categorized by Offense
  - To better assess the # of crimes for which illegal immigrants are arrested that are “incidental” to their status, illegal immigrants should be grouped according to the crime for which they have been charged or convicted.
- # 9 – Racial Profiling
  - Law enforcement should be required to collect and report the racial and ethnic data of all persons detained, arrested, and convicted so that law enforcement actions can be monitored and assessments made regarding racial or ethnic bias.

# Education



- # 10 – Bridging the Language Barrier
  - Law enforcement agencies should enhance their ability to overcome language barriers with Spanish speaking communities by arranging for law enforcement officers to be trained in the Spanish language and culture and by hiring more multi-lingual personnel.
  - The Department of Criminal Justice Services should partner with community organizations, such as the Hispanic Chamber of Commerce, to provide language training at no cost to the officer and to explore the possibility of tuition assistance or grant opportunities for officers who seek to earn language degrees at community colleges.

# Education



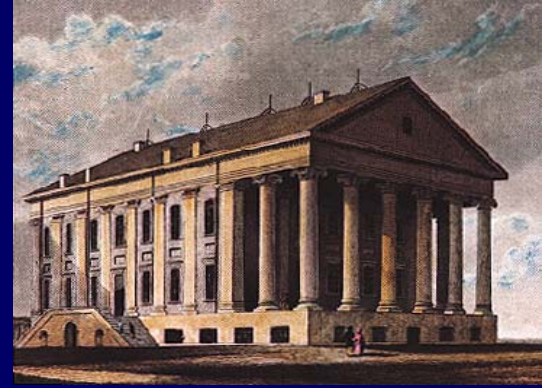
- # 11 – Education for Immigrant Communities
  - Law enforcement agencies, state and local governmental agencies, and community organizations should work together to educate immigrant communities on laws, regulations and safety issues relevant to immigrant communities.

# Law Enforcement & Public Safety



- # 12 – Immigration Training
  - The Department of Criminal Justice Services should establish educational programs for criminal justice agencies with respect to federal immigration law and enforcement and applicable state laws.
- # 13 – Building Relationships
  - Law enforcement agencies should build stronger working relationships with immigrant communities by working to establish trust through crime prevention programs, neighborhood watch programs, citizen police academies, community outreach events, and community information meetings.

# Law Enforcement & Public Safety



## ■ # 14 – Reinforcing Existing Law

- Recognizing that § 642(a) of the Illegal Immigration Reform and Responsibility Act of 1996 provides that no state or local government entity or official shall prohibit or restrict any government entity or official from sending to or receiving from DHS information regarding the citizenship or immigration status of any individual.

## ■ #15 – Reinforcing Existing Law

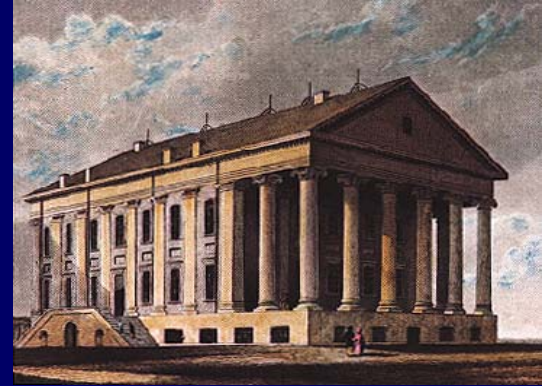
- Recognizing that VA Code § 19.2-81.6 provides law enforcement with the authority to arrest illegal immigrants encountered in the normal course of duty when the individual, 1) is confirmed to be illegally present in the U.S., 2) has previously been convicted of a felony in the U.S., and 3) was deported or left after such conviction.

# Law Enforcement & Public Safety



- # 16 – Mandatory Immigration Training / Policies
  - Require DCJS to implement mandatory immigration training for all local and state law enforcement.
  - VA Code § 19.2-81.4 should be amended to require that all law enforcement agencies develop a policy for the handling of illegal immigrants encountered in the course of their normal duties.
- # 17 – Regional Anti-Gang Task Forces
  - Recommend that all regions of VA that have not already done so form an anti-gang task force which should include, as a member, a representative from I.C.E.

# Law Enforcement & Public Safety



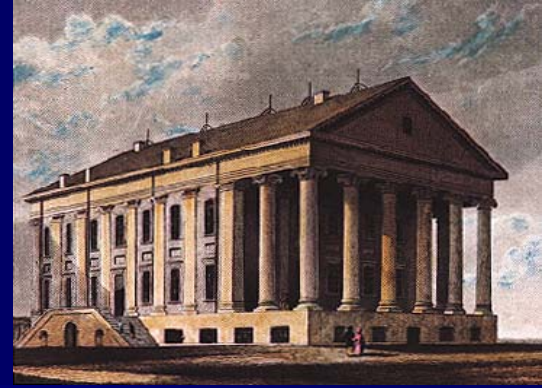
- **# 18 – Immigration Assistance in Crime Fighting**
  - Amend VA law to promote public safety by making it more likely that immigrants will report crime.
    - Prohibits inquiry into the immigration status, social security number, or other information that may disclose the immigration status, of any person who complains of, or is a witness to, a crime.
    - State or local government shall oppose the efforts or any party in a court proceeding to discover the status of a victim or witness and shall seek a protective order.
    - When status must be known, the information must be kept confidential unless required by federal law.
    - Law enforcement may inquire into status if there is reasonable ground to believe that the person is illegally present, has been convicted of a felony, and was deported or left the U.S.

# 287(g)



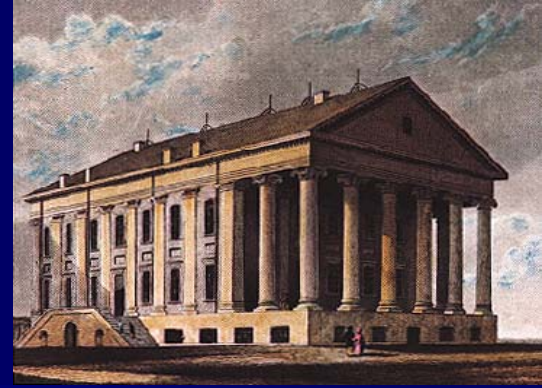
- **# 19 – Authorization for the Departments of State Police, Corrections, and Motor Vehicles**
  - Request the Governor to execute 287(g) agreements with I.C.E. to authorize State Police, DOC, and DMV to assist federal authorities in the detection, apprehension, detention, and removal of illegal immigrants confronted in their normal criminal justice functions. The authority for each department would be limited.
- **# 20 – Consideration of 287(g)**
  - Each jurisdiction in VA, the VSP, and the DOC, should assess whether the authority provided pursuant to 287(g) would be beneficial in identifying illegal immigrants who have been apprehended and detained from criminal activity.

# 287(g)



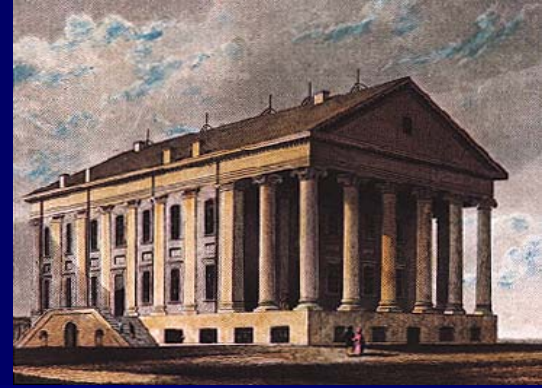
- # 21 – Limited Statutory Authority – 287(g)
  - Amend the VA Code to limit 287(g) agreements to 1) correctional facilities, and 2) post conviction.
- # 22 – Statewide Standards for 287(g)
  - Limit to correctional facilities, post-conviction inquiries, or enforcement of immigration laws only in the context of an ongoing criminal investigation of specific crimes.
  - Prohibit a designated officer to be engaged in unlimited enforcement of civil immigration laws against persons who have not committed a state or local crime.
  - Include complaint procedures, a sunset date with review and community input before renewal, limitations to specific officers who are not engaged in community policing, carefully defined authority, and clear guidelines for when someone can be detained on an immigration violation.

# Jails & Prisons



- # 23 – Offenses Triggering Response by I.C.E.
  - The Crime Commission should work with I.C.E. to develop a list of offenses which, if committed by an illegal immigrant, will guarantee that I.C.E. will detain and take custody of the suspect at the time of their trial, or at the conclusion of their sentence, whichever is longer.
  - Proposed Amendment: Request that if I.C.E. cannot guarantee detention and deportation of criminal illegal immigrants for all offenses that qualify under federal law, that it advise VA of the reason(s) for that decision so that VA can evaluate any options at its disposal to facilitate deportation.

# Jails & Prisons



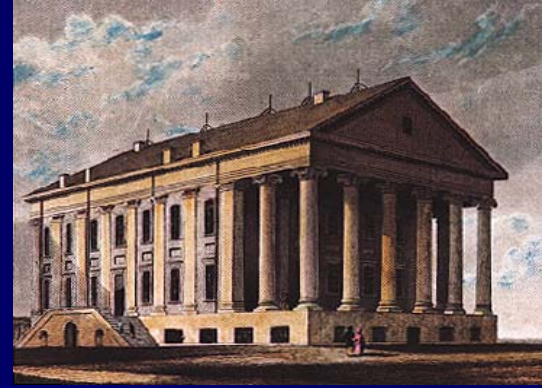
## ■ # 24 – Presumption Against Bail

- Amend VA Code § 19.2-120 to include illegal immigrants charged with a state crime, or for whom a federal warrant is outstanding, among those for whom there exists a presumption against bail unless and until notification is received from I.C.E. that it does not plan to detain the individual.

## ■ # 25 – Inquiry into Status and Reporting

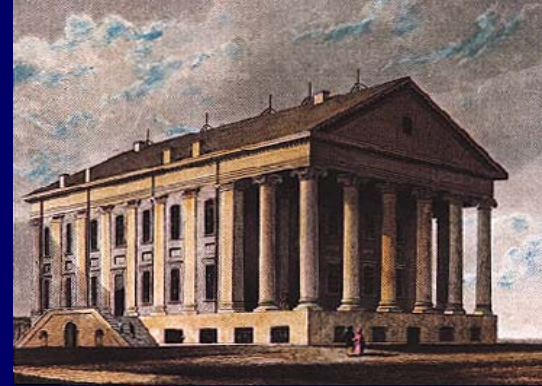
- Amend VA Code § 53.1-218 to require direct reporting to I.C.E.'s LESC of any inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is not known and, further, to require that confirmation of the inmate's immigration status be requested.

# Jails & Prisons



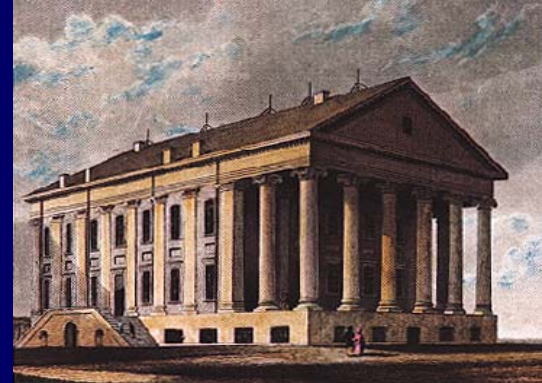
- # 26 – Training for Certain Jail and Prison Officers
  - Clarify the requirements of VA Code § 53.1-218 to ensure that officers responsible for intake and detention of inmates at jails and prisons receive training on the detection of illegal immigrants coming into the criminal justice system. They should assist federal authorities with the placement of federal immigration detainers for those subject to deportation.

# Jails & Prisons



- **# 27 – Facility for Criminal Illegal Immigrants**
  - The Commonwealth should negotiate with I.C.E. with regard to the government or private construction of a facility, of up to 1,000 beds.
  - The construction should be contingent upon I.C.E.'s commitment to make use of, and pay per diems for, the agreed upon bed space in order to fund debt service and the operational costs of the facility.
- **# 28 – Reimbursement Rate for Per Diems**
  - Any sheriff or regional jail administrator who holds an illegal immigrant, nonimmigrant, or legal permanent resident on behalf of the federal government and who, in doing so, is entitled to per diem reimbursement, shall be entitled to 100% of the reimbursement received from the federal government.

# Identification Documents



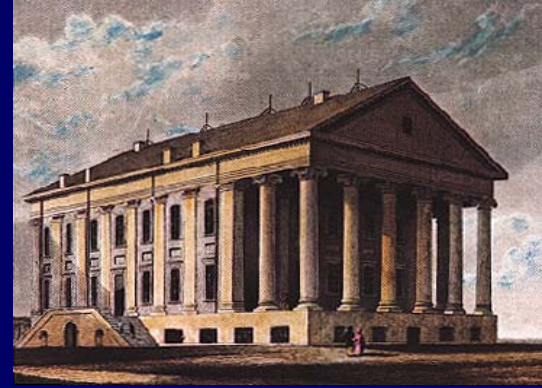
## ■ # 29 – Identity Theft Prevention

- The Department of Motor Vehicles should work with I.C.E. to assess if there are any vulnerabilities in the production of identity documents and other fraudulent documents in an effort to circumvent immigration law or for other criminal activity.

## ■ # 30 – Verification Cards for Showing Identity

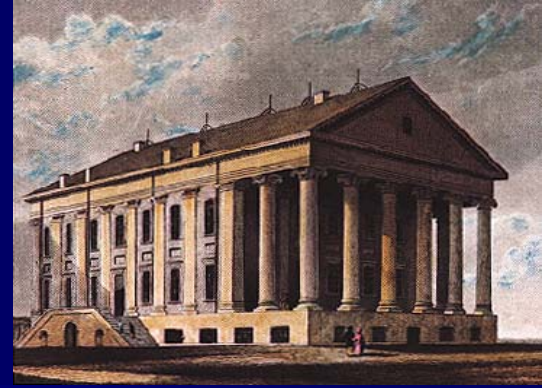
- A “verification card” should be accepted/created and issued to those who are illegal present to help state and local authorities properly identify such persons.
- Such document shall not provide legal status or rights but, rather, will merely serve as verification that the person is who they say they are.

# Employment



- **# 31 – Employment of Illegal Immigrants**
  - Provides for the loss of license for a business that knowingly employs illegal immigrants after investigation by the AG or Commonwealth’s Attorney.
  - Status can only be determined by federal government.
  - A first violation will result in the suspension of license, not to exceed 10 business days and a 3 year probationary period.
  - The business can avoid the loss of license if it discharges the illegal immigrant employees.
  - Any loss of license requires a hearing and court order.
  - Employers are required to verify the status of new employees through the federal government’s “E-Verify” program (formerly Basic Pilot Program).

# Documentation for Certain Benefits



- # 32 – Documentation Required for Certain Benefits
  - Any person who applies for a state administered public benefit program that requires participants to be U.S. citizens must provide documentation that they are legally present in the U.S.
  - Self declarations of U.S. citizenship, even under penalty of perjury, are not sufficient to document citizenship.