

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York;

WHEREAS, 409,000 cases of COVID-19 have been documented in New York State, including positive cases resulting from both travel-related and community contact transmission and are expected to continue rising in the fall;

WHEREAS, the total number of confirmed cases is likely much higher than reports provided by ICE due to lack of access to testing, failure to disclose how many have been tested, inconsistent reporting methodology, suppression of information regarding COVID-19 testing conducted by New York State Department of Corrections and Community Supervision, and failure to disclose positive cases of COVID19 among its third party contract staff;

WHEREAS, direct reports from inside detention facilities confirm alarming lack of preparedness by ICE to respond to this pandemic, including a lack of personal protective equipment (PPE), a lack of staff/guard compliance with health protocols requiring PPE use at all times, medical neglect of immigrants presenting with symptoms, lack of access to soap, inability to maintain six feet of physical distance in accordance to CDC guidelines, a continuation of transfers between immigrant prisons without appropriate screening and medical isolation, and continuation of dangerous medical isolation procedures that group people who may have come into contact with COVID-19 together in a manner that virtually ensures exposure to COVID-19;

WHEREAS, local governments have entered into Intergovernmental Service Agreements with the federal government to maintain and facilitate the detention and deportation of immigrants;

WHEREAS, private prisons are banned in New York State but local and state facilities contract with private corporations to maintain and facilitate the detention and deportation of immigrants;

WHEREAS, even before COVID19 was first detected in detention, ICE had demonstrated its inability to ensure a basic level of care for persons in its custody, both in New York and elsewhere in the country;

WHEREAS, urgent action is required to prevent our country's immigration detention system from causing countless unnecessary deaths. Public health experts have already recommended reducing prison and detention populations in response to the COVID-19 pandemic, and warn that, if detention levels are not dramatically reduced, COVID19 cases in ICE facilities will increase, with a potential for as many as 72% of people in ICE detention contracting COVID-19 by August 15, 2020, placing a burden on local health care systems, to the risk of everyone in the community;

WHEREAS, New York's local and state law enforcement agencies actively populate immigration detention centers by transferring people to ICE custody on a regular basis;

WHEREAS, pursuant to 8 C.F.R. §287.7, any assistance provided by a state or county in responding to a request from ICE, including a transfer request, is voluntary, and ending this

voluntary practice is imperative to addressing the serious public health risk posed to New York communities and the state's health systems,

WHEREAS, the governor has the authority to act unilaterally to direct the New York State Department of Corrections and Community Supervision, as an agency under his control, to stop complying with any and all immigration requests, including transfers, and the governor has the authority to order local law enforcement agencies to stop transfers during the state of emergency;

WHEREAS, in addition to the transfer of individuals from law enforcement to ICE custody, the continued use and expansion of immigration detention is a significant driver of the growing population in detention;

WHEREAS, existing federal law authorizes localities and states to enter into contracts or agreements with the federal agencies, including the Department of Homeland Security, that grant access to detention or incarceration space or facilities, or authorize a local or state officer or employee to detain aliens in the United States;

WHEREAS, detention poses significant health risks that during a global pandemic present a unique threat to public health;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through [INSERT DATE THAT IS THIRTY DATES POST-EO]:

- A state or local government entity shall not enter into or renew a contract, or modify a contract to extend the length of the contract, with the federal government or any federal agency to house or detain an adult noncitizen in a locked detention facility for purposes of civil immigration custody.
- Any state or local correctional facility that currently responds to any ICE request for notification of release, or in any other manner facilitates the transfer of individuals in their custody to ICE, is hereby directed to immediately suspend any such activities.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through [INSERT DATE THAT IS THIRTY DATES POST-EO]:

- Subdivision (4) of Section 215 of the County Law, to the extent necessary to authorize the immediate suspension of all IGSA contracts between local governments and ICE.

G I V E N under my hand and the Privy Seal of the State in the City of Albany the [INSERT DAY] day of [INSERT MONTH] in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor