



OFFICE OF THE SHERIFF BUNCOMBE COUNTY, NORTH CAROLINA

60 Court Plaza, 4th Floor Judicial Bldg
Asheville, N.C. 28801

Quentin Miller, Sheriff

UPDATE:

Effective December 1, 2024, the provisions of House Bill 10, Require ICE Cooperation & Budget Adjustments, related to the immigration status of persons in the custody of sheriffs in county jails became law.

This update clarifies how the 48-hour hold requirement is calculated when a sheriff receives an order from a magistrate or judge on form AOC-CR-662 requiring the sheriff to hold the person for a period of 48 hours.

In those cases where a magistrate or judge orders the person held by the sheriff for 48 hours pursuant to the provisions of House Bill 10, the 48-hour period begins to run from the moment the sheriff received the detainer and administrative warrant from ICE. The 48-hour period does NOT begin to run when the magistrate or judge signs the order. In addition, the 48-hour period includes weekends and holidays.

While previous versions of House Bill 10 excluded weekends and holidays from the 48-hour period noted above, those provisions were removed from the bill by the General Assembly prior to enactment and did not become law. Therefore, you should disregard previous summaries of House Bill 10 prepared by the Association on this point.

An updated summary of House Bill 10 is provided below for your reference.

The provisions of House Bill 10 that are relevant to the Office of Sheriff are as follows:

1. Effective December 1, 2024, requires administrators of county jails, local confinement facilities, district confinement facilities, satellite jails, or work release units (including the sheriff) to attempt to determine if a person confined therein and charged with any of the following offenses is a legal resident of the United States: (1) certain felonies (including controlled substance felonies); (2) Class A1 misdemeanor assaults; and (3) misdemeanor violations of a valid domestic violence prevention order.
2. Effective December 1, 2024, requires administrators of county jails, local confinement facilities, district confinement facilities, satellite jails, or work release units (including the sheriff) to take an inmate or detainee before a judicial official (i.e. magistrate or judge) in this State if the administrator is in receipt of a detainer and administrative warrant issued for the inmate or detainee by Immigration and Customs Enforcement (ICE) of the United States Department of Homeland Security.

3. Effective December 1, 2024, requires the judicial official to issue an order directing that the person be held in compliance with the detainer and administrative warrant if the official finds that the person presented is the same person subject to the detainer or administrative warrant. The bill provides that no State or local law enforcement officer or agency shall be criminally or civilly liable for action taken pursuant to such an order.

4. Effective December 1, 2024, requires that, unless continued custody of the prisoner is required by other legal process, a person held pursuant to an order issued under the bill's provisions must be released after 48 hours have elapsed from receipt of the detainer and administrative warrant if the person has not yet been taken into the custody of Immigration and Customs Enforcement of the United States Department of Homeland Security or if the detainer has not yet been rescinded.

Sheriffs may wish to share a copy of the new form with their jail personnel and with their local magistrates and judges since this is a new form to be used to implement a new law.