Members of the New York City Council aren't waiting for the Obama administration to fix the immigration system.

New York has long been a sanctuary for immigrants and now, a majority of City Council members has moved to take on the Obama administration and current city policy in an effort to reduce the threat of deportation for some of New York's undocumented residents.

In a bill introduced on Wednesday Intro 656, City Council members propose to remove city funding that supports Immigration and Customs Enforcement (ICE) efforts to detain immigrants who have been cleared of their crimes and have no previous criminal background.

Photo by Jane C. Timm

City Councilmember Melissa Mark-Viverito, a leading sponsor of a bill to limit the city's cooperation with federal immigration officials, spoke at a rally before the measure was introduced on Wednesday.

“This is the right message to send to the administration,” Councilmember Melissa Mark-Viverito (/city/district/8) of Manhattan, a lead sponsor of the bill, told Gotham Gazette. “We won’t be complicit in ensnaring New York City residents in a broken immigration system.”
On Thursday, the Obama administration announced [http://www.nytimes.com/2011/08/19/us/19immig.html?ref=us] that it would suspend deportation proceedings against many undocumented immigrants who pose no threat to national security or public safety.

Peter Markowitz, director of the Immigration Justice Clinic [http://www.cardozo.yu.edu/MemberContentDisplay.aspx?ccmd=ContentDisplay&ucmd=UserDisplay&userid=84] at Cardozo Law School, has doubt about what President Barack Obama’s promise will really mean.

“We don’t know how this is going to be implemented,” Markowitz said, noting the announcement’s vague language. “We’re past the point with the Obama administration where we take them at their word on immigration issues. Until we see some action, localities need to do what they need to do to protect their communities.”

**Detained and Deported**

ICE’s Criminal Alien Program [http://www.ice.gov/criminal-alien-program/] aims to "screen inmates and place detainers on criminal aliens to process them for removal before they are released to the general public,” according to ICE. Under the program, the city gives names of people arrested [/index.php/civil-rights/744-concerns-raised-over-city-role-in-deporting-immigrants] -- whether or not they are convicted of any crime -- to the federal agency, which then can check whether the person is here legally. If not, ICE then requests that the person be detained after his or her scheduled release so ICE can arrange to transfer the immigrant to a federal facility, usually far from New York, to await deportation proceedings.

Opponent of the Criminal Alien Program say that far too often it sends innocent people and petty criminals into ICE’s hands.

More than 50 percent of all prison inmates who are discharged to the ICE have no criminal record, the council bill states; for 20 percent of all the inmates who are discharged to ICE their highest offense is a misdemeanor. In New York, violations lower than a misdemeanor and certain crimes committed by youths are not considered criminal. The detentions of inmates for ICE cost tens of millions of dollars, according to Make the Road New York [http://www.maketheroad.org/], a nonprofit that works with immigrants, and the federal government only subsidizes a portion of that.

The bill already has 35 cosponsors — enough to overrule a mayoral veto — and may find more after the hearings. Most notably, it also has backing from Council Speaker Christine Quinn, who is one of the sponsors.

According to council sources, Mayor Michael Bloomberg â€“ normally an outspoken supporter of immigrants’ rights — does not support the bill. A spokesman for him noted that the mayor does not take public stances on legislation before its hearings and but added, “We are glad that the council has begun considering the public safety aspects of this issue, and we look forward to reviewing the draft legislation.”

Earlier this year, in a letter [http://www.nytimes.com/2011/04/14/opinion/lweb14immig.html?_r=1&scp=1&sq=feinblatt&st=cse] to the New York Times, John Feinblatt, the mayor’s chief policy adviser, linked the detention to the city’s efforts to prevent terrorism. “As our country has learned tragically, when government agencies fail to cooperate and share information, not only is public safety compromised, so is national security,” Feinblatt wrote.

Quinn, who regularly sides with the mayor, is standing against him on this; Mark-Viverito said it is because she sees it as “the right thing to do.”

For many, the deportations occur a matter of timing and limited resources — not because of a crime.
Sarah Deri Oshiro, an attorney at Bronx Defenders (http://www.bronxdefenders.org/), a nonprofit that provides legal services to Bronx residents charged with crimes, described a former client, Gustavo, a 32-year-old man who had been in New York City for almost a decade. After being arrested for a having fake green card in 2004, he never appeared for trial for fear of deportation.

When he was arrested a second time — accused of stealing a box of Snickers — a higher bail was set. “No one could run down to jail and post $1,000 that night, so he ends up having to spend the night in jail which is the end of your story, if you’re an undocumented immigrant,” Oshiro said.

Gutavo was later cleared of the candy bar charge, but it was too late -- ICE had already placed a detainer hold on Gustavo, and he was deported back to Mexico shortly after.

These kinds of cases are “much more common than people believe,” Oshiro said.

**Safety Issues**

Their occurrence â€” and the city government’s complicity in such strict federal immigration proceedings — erodes the trust between immigrants and law enforcement, bill supporters say.

“What it means on the ground is that immigrant women who are victims of domestic violence are afraid to call the police, immigrants may be afraid to report crimes, immigrants may be afraid to seek services they’re eligible for,” the co-executive director of Make the Road New York Andrew Friedman said.

But opponents of the bill aren’t convinced.

Cops aren’t “out there arresting innocent witnesses to crimes for being illegal immigrants,” Councilmember Peter Vallone (/campaigns/whosrunning.php?tid=indiv&rid=230) of Queens said.

“This entire bill operates on the erroneous premise that the people who enter this country illegally are entitled to a trial on a separate criminal charge before we even share information with the federal government,” he told Gotham Gazette.

Vallone wrote to the federal Department of Homeland Security expressing his opposition to the bill in December 2010 and said that a delegation of 10 people from the department visited him to discuss the issue and his support of their work. “They believe what they are doing in our jails is absolutely necessary to keep our cities safe,” he said. The delegation also later met with Quinn to discuss the bill. “I think that proves how important this is,” Vallone said.

Opponents of the bill say that if passed, it will threaten public safety.

“This is a political decision. They don’t think our immigration should be enforced and they’ll do anything to thwart it,” said Ira Mehlman, a spokesman for the Federation for American Immigration Reform (http://www.fairus.org/site/PageServer), which advocates for stricter immigration policies.

The bill’s introduction takes place amid a larger immigration and states right debate over the Obama administration’s Secure Communities (/index.php/civil-rights/756-secure-communities-program-should-new-york-stay-or-go), a program that shares fingerprint information of all undocumented immigrants with ICE in order to speed ICE’s deportation of felons. Gov. Andrew Cuomo made New York (/blogs/wonkster/2011/06/01/cuomo-suspends-participation-in-secure-communities/) the second state â€” Illinois was the first — to withdraw from the program earlier this summer. “Based on evidence to date, it appears the program in New York is failing in this regard and is actually undermining law enforcement,” the governor’s office said in a press release in June.

In August, however, the Obama administration informed governors that they did not have the right to leave the program and that it would be implemented anyway. New York, Illinois and Massachusetts, which also has opted out, are fighting this decision.
"This bill will do what it proclaims to do with or without the Secure Communities program," said Markowitz, who was on a team commissioned by Make the Road to study New York’s immigration policies. "The number of people affected by it would skyrocket, too, if Secure Communities is implemented. The import of this bill would increase."

If Secure Communities does go into effect here, the city would have to inform ICE of any immigrant it arrests. This would certainly increase the number of people ICE would seek to detain and perhaps deport, but the council bill would keep the city from complying with many of those requests. "Immigration admits that they cannot force us to hold people on detainers. To the contrary, they've said, 'We know we can't do that,'" Markowitz said.