

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 403

(Delegate Wilkins, *et al.*)

Judiciary

Judicial Proceedings and Education, Health,
and Environmental Affairs

Immigration Enforcement - Public Schools, Hospitals, and Courthouses - Policies

This bill authorizes public schools, hospitals, and courthouses to establish and publish policies that limit immigration enforcement on their respective premises to the fullest extent possible consistent with federal and State law based on guidelines developed by the Attorney General. The Attorney General must consult with appropriate stakeholders in developing these guidelines.

Fiscal Summary

State Effect: The Attorney General can develop the required guidelines with existing resources. Federal funds are not affected since any policy that limits immigration enforcement must be consistent with federal law.

Local Effect: Local governments can comply with the bill's provisions with existing resources. Federal funds are not affected since any policy that limits immigration enforcement must be consistent with federal law.

Small Business Effect: None.

Analysis

Current Law/Background: U.S. Immigration and Customs Enforcement (ICE) currently has in place a "sensitive location" policy, which states that immigration enforcement actions at sensitive locations should generally be avoided and require either prior supervisory approval or exigent circumstances. Locations covered by the policy include

public schools, colleges, and universities in addition to places of worship, public demonstrations, and religious or civil ceremonies or observances.

In 2012, the U.S. Department of Homeland Security (DHS) issued the Deferred Action for Childhood Arrivals (DACA) policy (pursuant to an executive order) to allow young unauthorized immigrants who are low enforcement priorities to remain in the country. DACA does not grant an individual legal immigration status or provide a pathway to citizenship, but it does provide individuals with a temporary lawful status. To be eligible for DACA, an individual must meet specified requirements including (1) being younger than age 31 as of June 15, 2012; (2) having arrived in the United States prior to the age of 16; and (3) either being currently in school or having graduated or obtained a certificate of completion from high school, having a GED, or having been honorably discharged from the Coast Guard or Armed Forces. Individuals eligible for DACA must not have been convicted of a felony, significant misdemeanor, three or more other misdemeanors, or otherwise pose a threat to national security or public safety. In 2017, DHS rescinded the DACA program and several lawsuits were filed against the administration for terminating the program. In 2018, however, ICE announced it would accept DACA renewal applications. In November 2019, the U.S. Supreme Court heard arguments in *McAleenan v. Vidal*, which consolidated three of the DACA lawsuits into one case. That decision is expected by June 2020.

State/Local Fiscal Effect: This analysis assumes the Attorney General develops guidelines that ensure compliance with federal law and that the specified parties fully comply with those guidelines. As such, there is no operational or financial impact on State or local entities.

The Department of Legislative Services notes, however, that current law regarding the immigration status of specified individuals is still unsettled due to ongoing lawsuits. Pursuant to an [executive order dated January 25, 2017](#), President Donald J. Trump directed the U.S. Attorney General to take appropriate enforcement action against any entity violating specified provisions of federal law or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of federal law. The executive order also declared that it is the policy of the Executive Branch to ensure that jurisdictions that fail to comply with applicable federal law do not receive federal funds, except as mandated by law. The U.S. Ninth Circuit Court of Appeals ruled the executive order's provisions *denying* federal funds to jurisdictions refusing to cooperate with federal immigration policy is unconstitutional. However, the U.S. Ninth Circuit Court of Appeals ruled in a different case that the federal government may give *preferential treatment* in awarding grants to cities that cooperate with immigration authorities.

Accordingly, federal fund revenues may decrease if the bill's provisions are deemed as noncompliant with federal law.

Additional Information

Prior Introductions: HB 1273 of 2019 passed the House and was referred to the Senate Judicial Proceedings and Education, Health, and Environmental Affairs committees, but no further action was taken. Its cross file, SB 599, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: SB 903 (Senator Smith) - Judicial Proceedings and Education, Health, and Environmental Affairs.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Anne Arundel County Public Schools; Baltimore City Community College; University of Maryland Medical System; Maryland Department of Health; Department of Legislative Services

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