

# HOUSE BILL 744

E2, E4, E1

11r0740

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By: **Delegates McDonough, Boteler, Frank, Kach, Kipke, Krebs, McComas, and Minnick**

Introduced and read first time: February 10, 2011

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Citizens Rights Act**

3 FOR the purpose of requiring a managing official of a correctional facility or the  
4 managing official's designee to require an individual committed to the  
5 correctional facility to provide information as to the immigration status of the  
6 individual; requiring a managing official of a correctional facility or the  
7 managing official's designee to send an immigration alien query to the Law  
8 Enforcement Support Center for information relating to the immigration status  
9 of individuals committed to the correctional facility; requiring the managing  
10 official of a correctional facility to report the immigration status of certain  
11 individuals to the Central Repository, the Division of Correction, and the  
12 Division of Parole and Probation; requiring the divisions to maintain in their  
13 offender management systems certain information regarding certain  
14 individuals; requiring certain State agencies to assist the United States  
15 Immigration and Customs Enforcement Agency with information leading to the  
16 deportation of certain individuals; requiring the Central Repository to record  
17 certain information in the criminal history record of certain individuals;  
18 requiring the Central Repository to report certain information to the Law  
19 Enforcement Support Center; prohibiting a person who is in violation of certain  
20 federal law from failing to complete certain registration documents or carry at  
21 all times certain registration documents; establishing penalties; providing a  
22 person convicted and sentenced for failing to complete or carry certain  
23 documents is not eligible for suspension of sentence, probation before judgment,  
24 pardon, or release from confinement until the sentence imposed by the court is  
25 served; requiring the person to pay the costs of confinement; prohibiting a  
26 person who does not have lawful presence in the United States from knowingly  
27 applying for work, soliciting work in a public place, or being an employee or  
28 independent contractor; authorizing certain State law enforcement officers  
29 authorized by the federal government to verify a certain person's immigration  
30 status; prohibiting a law enforcement officer from considering certain attributes

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



of a detained individual in making a certain determination, except to the extent authorized by the United States Constitution and the Maryland Constitution; establishing the admissibility of certain immigration records in court under certain circumstances; providing an exception from certain provisions of law for persons who maintain authorization from the federal government to remain in the United States; requiring a police officer who encounters and detains in the normal course of the officer's duties an individual who the police officer determines is an undocumented alien to inform the United States Immigration and Customs Enforcement Agency of the United States Department of Homeland Security of the detention as soon as possible after the police officer has detained the undocumented alien; providing that this Act does not require that a police officer search for an individual for the sole purpose of detaining undocumented aliens; prohibiting a police officer from considering certain attributes of a detained individual in making a certain determination, except to the extent authorized by the United States Constitution and the Maryland Constitution; altering certain warrantless arrest authority of a police officer by authorizing the warrantless arrest of a person who commits a public felony or misdemeanor that makes the person removable from the United States; prohibiting a District Court commissioner from authorizing the pretrial release of a defendant who cannot provide documentation acceptable to the Department of Public Safety and Correctional Services certifying that the individual is lawfully present in the United States in accordance with federal law; requiring each law enforcement agency in the State to enter into a certain memorandum of understanding to enforce federal immigration law; requiring each law enforcement agency in the State to provide certain training to certain law enforcement officers; authorizing a law enforcement agency to transport a certain alien who is in the agency's custody and for whom the agency has received verification the alien is unlawfully present in the United States to a federal facility in the State or to a point of transfer into federal custody; requiring that, under certain circumstances, a law enforcement agency obtain authorization from the court before transporting an alien to federal custody; requiring local governments to comply fully with and support federal immigration law; prohibiting local governments from restricting their officials, personnel, or agents from requesting, obtaining, sending, receiving, or maintaining certain immigration information; requiring local governments to implement certain requirements and obligations in a certain manner; providing that a registered voter under the laws of the State may file a complaint alleging certain actions against certain officers and employees of the State or of a local government for declaratory judgment and injunctive relief; specifying that a person has standing to file a certain action against certain officers and employees under certain circumstances; authorizing a court to direct certain officers and employees to reimburse a person for certain fees and costs under certain circumstances; providing that certain persons may not avail themselves of the remedies provided under this Act; requiring adults to provide proof of lawful presence in the United States before receiving certain public benefits; requiring State units and political subdivisions that provide certain public benefits to verify the lawful presence of certain persons in the United States; providing for certain exceptions; requiring certain applicants for certain public

benefits to produce certain types of identification; requiring certain applicants for certain public benefits to execute a certain affidavit; authorizing a State unit to adopt regulations regarding a certain waiver process or additional forms of identification for certain adults applying for certain public benefits; prohibiting State units or political subdivisions, after a certain date, from providing certain public benefits to certain adults who are not lawfully present in the United States; making it a misdemeanor to knowingly make a certain false, fictitious, or fraudulent statement or affidavit; providing certain penalties; requiring State units and political subdivisions to verify an applicant's lawful presence through a certain federal program; allowing a certain affidavit to be presumed to be proof of lawful presence under certain circumstances; authorizing State units and political subdivisions to adopt certain modifications to certain requirements under certain circumstances; requiring certain reports; establishing that a State unit or political subdivision, except as provided in federal law, may not be prohibited or restricted from sending, receiving, maintaining, or exchanging information related to immigrant status with other federal agencies, State units, or political subdivisions for certain reasons; altering a certain date until which the Motor Vehicle Administration shall issue a certain temporary identification card, moped operator's permit, or license to drive that is not acceptable to federal agencies for certain official purposes; requiring the Administration to notify by certified mail certain people who were issued a certain temporary identification card, moped operator's permit, or license to drive between certain dates of the new date by which the certain temporary identification card, moped operator's permit, or license to drive will expire; requiring the Administration to issue a certain substitute temporary identification card, moped operator's permit, or license to drive that will expire on the altered date; altering a certain date on which a certain temporary identification card, moped operator's permit, or license to drive shall expire; requiring local governments to comply with certain provisions of law in order to receive certain aid from the State; defining certain terms; and generally relating to immigrant aliens in Maryland.

BY adding to

Article – Correctional Services

Section 9–614

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

BY adding to

Article – Criminal Law

Section 9–901 through 9–904 to be under the new subtitle “Subtitle 9. Unlawful Presence in the United States”

Annotated Code of Maryland

(2002 Volume and 2010 Supplement)

BY adding to

Article – Criminal Procedure

Section 2–108, 2–202(d), and 5–202(j)

1 Annotated Code of Maryland  
2 (2008 Replacement Volume and 2010 Supplement)

3 BY adding to  
4 Article – Public Safety  
5 Section 3–508 and 3–509  
6 Annotated Code of Maryland  
7 (2003 Volume and 2010 Supplement)

8 BY adding to  
9 Article – State Government  
10 Section 8–502.1; and 10–1301 through 10–1308 to be under the new subtitle  
11 “Subtitle 13. Proof of Lawful Presence to Receive Public Benefits”  
12 Annotated Code of Maryland  
13 (2009 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Transportation  
16 Section 16–122(a)  
17 Annotated Code of Maryland  
18 (2009 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article 41 – Governor – Executive and Administrative Departments  
21 Section 4–405  
22 Annotated Code of Maryland  
23 (2010 Replacement Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Correctional Services**

27 **9–614.**

28 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
29 **MEANINGS INDICATED.**

30 **(2) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE**  
31 **INFORMATION SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT.**

32 **(3) “CORRECTIONAL FACILITY” INCLUDES LOCAL**  
33 **CORRECTIONAL FACILITIES AND CORRECTIONAL FACILITIES IN THE DIVISION**  
34 **OF CORRECTION.**

1           (4) “LAW ENFORCEMENT SUPPORT CENTER” MEANS THE LAW  
2 ENFORCEMENT SUPPORT CENTER OF THE UNITED STATES IMMIGRATION AND  
3 CUSTOMS ENFORCEMENT AGENCY.

4           (B) (1) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY OR  
5 THE MANAGING OFFICIAL’S DESIGNEE SHALL REQUIRE EACH INDIVIDUAL  
6 COMMITTED TO THE CORRECTIONAL FACILITY TO PROVIDE INFORMATION AS TO  
7 THE IMMIGRATION STATUS OF THE INDIVIDUAL.

8           (2) IF, BASED ON THE INFORMATION PROVIDED UNDER  
9 PARAGRAPH (1) OF THIS SUBSECTION OR THE FAILURE TO PROVIDE  
10 SATISFACTORY INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, IT  
11 IS DETERMINED THAT THE INDIVIDUAL IS UNLAWFULLY PRESENT IN THE  
12 UNITED STATES, THE MANAGING OFFICIAL OR THE MANAGING OFFICIAL’S  
13 DESIGNEE SHALL SEND AN IMMIGRATION ALIEN QUERY TO THE LAW  
14 ENFORCEMENT SUPPORT CENTER FOR INFORMATION RELATING TO THE  
15 INDIVIDUAL’S IMMIGRATION STATUS.

16           (3) IF THE RESULTS OF THE IMMIGRATION ALIEN QUERY  
17 INDICATE THAT THE INDIVIDUAL IS UNLAWFULLY PRESENT IN THE UNITED  
18 STATES, THE MANAGING OFFICIAL SHALL REPORT THAT FACT TO:

19                   (I) THE CENTRAL REPOSITORY;

20                   (II) THE DIVISION OF CORRECTION; AND

21                   (III) THE DIVISION OF PAROLE AND PROBATION.

22           (C) THE DIVISION OF CORRECTION SHALL:

23                   (1) MAINTAIN IN ITS OFFENDER MANAGEMENT SYSTEM, A  
24 SPECIFIC DATA FIELD FOR THE ENTRY OF REPORTS RECEIVED UNDER  
25 SUBSECTION (B)(3) OF THIS SECTION REGARDING INDIVIDUALS COMMITTED TO  
26 A CORRECTIONAL FACILITY WHO ARE UNLAWFULLY PRESENT IN THE UNITED  
27 STATES; AND

28                   (2) ASSIST THE UNITED STATES IMMIGRATION AND CUSTOMS  
29 ENFORCEMENT AGENCY WITH INFORMATION LEADING TO THE DEPORTATION  
30 OF INDIVIDUALS COMMITTED TO A CORRECTIONAL FACILITY WHO ARE  
31 UNLAWFULLY PRESENT IN THE UNITED STATES.

32           (D) THE DIVISION OF PAROLE AND PROBATION SHALL:

(1) MAINTAIN IN ITS OFFENDER MANAGEMENT SYSTEM, A SPECIFIC DATA FIELD FOR THE ENTRY OF REPORTS RECEIVED UNDER SUBSECTION (B)(3) OF THIS SECTION REGARDING INDIVIDUALS COMMITTED TO A CORRECTIONAL FACILITY WHO ARE UNLAWFULLY PRESENT IN THE UNITED STATES; AND

(2) ASSIST THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY WITH INFORMATION LEADING TO THE DEPORTATION OF INDIVIDUALS COMMITTED TO A CORRECTIONAL FACILITY WHO ARE UNLAWFULLY PRESENT IN THE UNITED STATES AND WHO MAY BE CONSIDERED FOR PROBATION OR PAROLE.

**(E) THE CENTRAL REPOSITORY SHALL:**

(1) RECORD INFORMATION REGARDING AN INDIVIDUAL'S ILLEGAL IMMIGRATION STATUS IN THE INDIVIDUAL'S CRIMINAL HISTORY RECORD; AND

(2) REPORT TO THE LAW ENFORCEMENT SUPPORT CENTER THE IDENTITY AND RELEASE DATES OF ALL CONVICTED OFFENDERS IN THE CUSTODY OF A CORRECTIONAL FACILITY WHO ARE UNLAWFULLY PRESENT IN THE UNITED STATES.

**Article – Criminal Law**

**SUBTITLE 9. UNLAWFUL PRESENCE IN THE UNITED STATES.**

**9–901.**

(A) IN ADDITION TO ANY VIOLATION OF FEDERAL LAW, A PERSON MAY NOT WILLFULLY FAIL TO COMPLETE OR CARRY AN ALIEN REGISTRATION DOCUMENT IF THE PERSON IS IN VIOLATION OF 8 U.S.C. § 1304(E) OR § 1306(A).

(B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 DAYS OR A FINE NOT EXCEEDING \$100 OR BOTH FOR A FIRST OFFENSE.

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO VIOLATES THIS SECTION ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING \$150 OR BOTH.

1           (C) A PERSON WHO IS CONVICTED AND SENTENCED UNDER THIS  
2 SECTION:

3                   (1) IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE, PROBATION  
4 BEFORE JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE,  
5 PARDON, OR RELEASE FROM CONFINEMENT ON ANY BASIS UNTIL THE  
6 SENTENCE IMPOSED BY THE COURT IS SERVED; AND

7                   (2) SHALL PAY THE COSTS OF CONFINEMENT AS PROVIDED BY  
8 LAW.

9 **9-902.**

10           (A) A PERSON WHO DOES NOT HAVE LAWFUL PRESENCE IN THE UNITED  
11 STATES MAY NOT:

12                   (1) KNOWINGLY APPLY FOR WORK;

13                   (2) SOLICIT WORK IN A PUBLIC LOCATION BY USING VERBAL OR  
14 NONVERBAL COMMUNICATION THAT WOULD INDICATE TO A REASONABLE  
15 PERSON THAT A PERSON IS WILLING TO BE EMPLOYED; OR

16                   (3) PERFORM WORK AS AN EMPLOYEE OR INDEPENDENT  
17 CONTRACTOR IN THE STATE.

18           (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
20 EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING \$100 OR BOTH.

21 **9-903.**

22           (A) IN THE ENFORCEMENT OF THE PROVISIONS OF THIS SUBTITLE, AN  
23 ALIEN'S IMMIGRATION STATUS MAY BE DETERMINED BY:

24                   (1) A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE  
25 FEDERAL GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION  
26 STATUS; OR

27                   (2) THE UNITED STATES IMMIGRATION AND CUSTOMS  
28 ENFORCEMENT AGENCY OF THE UNITED STATES DEPARTMENT OF HOMELAND  
29 SECURITY.

30           (B) A LAW ENFORCEMENT OFFICER MAY NOT CONSIDER RACE, COLOR,  
31 OR NATIONAL ORIGIN IN ENFORCING PROVISIONS OF THIS SUBTITLE EXCEPT TO

1 THE EXTENT AUTHORIZED BY THE UNITED STATES CONSTITUTION AND THE  
2 MARYLAND CONSTITUTION.

3 (C) IN A PROSECUTION UNDER A PROVISION OF THIS SUBTITLE, ANY  
4 RECORD THAT RELATES TO THE IMMIGRATION STATUS OF A PERSON IS  
5 ADMISSIBLE IN ANY COURT WITHOUT FURTHER FOUNDATION OR TESTIMONY  
6 FROM CUSTODIAN RECORDS IF THE RECORD IS CERTIFIED AS AUTHENTIC BY  
7 THE GOVERNMENT AGENCY RESPONSIBLE FOR MAINTAINING THE RECORD.

8 9-904.

9 THIS SUBTITLE DOES NOT APPLY TO A PERSON WHO MAINTAINS  
10 AUTHORIZATION FROM THE FEDERAL GOVERNMENT TO REMAIN IN THE UNITED  
11 STATES.

#### 12 Article – Criminal Procedure

13 2-108.

14 (A) A POLICE OFFICER WHO ENCOUNTERS AND DETAINS IN THE  
15 NORMAL COURSE OF THE OFFICER'S DUTIES AN INDIVIDUAL WHO THE POLICE  
16 OFFICER DETERMINES IS AN UNDOCUMENTED ALIEN SHALL INFORM THE  
17 UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY OF THE  
18 UNITED STATES DEPARTMENT OF HOMELAND SECURITY OF THE DETENTION  
19 AS SOON AS POSSIBLE AFTER THE POLICE OFFICER HAS DETAINED THE  
20 UNDOCUMENTED ALIEN.

21 (B) A POLICE OFFICER MAY NOT CONSIDER RACE, COLOR, OR NATIONAL  
22 ORIGIN IN IMPLEMENTING THE REQUIREMENTS OF SUBSECTION (A) OF THIS  
23 SECTION EXCEPT TO THE EXTENT AUTHORIZED BY THE UNITED STATES  
24 CONSTITUTION AND THE MARYLAND CONSTITUTION.

25 (C) SUBSECTION (A) OF THIS SECTION DOES NOT REQUIRE A POLICE  
26 OFFICER TO SEARCH FOR AN INDIVIDUAL FOR THE SOLE PURPOSE OF  
27 DETAINING AN UNDOCUMENTED ALIEN.

28 2-202.

29 (D) NOTWITHSTANDING ANY OTHER LAW, A POLICE OFFICER MAY  
30 ARREST WITHOUT A WARRANT A PERSON WHO COMMITS A FELONY OR  
31 MISDEMEANOR IN PUBLIC THAT MAKES THE PERSON REMOVABLE FROM THE  
32 UNITED STATES.

33 5-202.



1           **(J) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE**  
2 **PRETRIAL RELEASE OF A DEFENDANT WHO CANNOT PROVIDE DOCUMENTATION**  
3 **ACCEPTABLE TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL**  
4 **SERVICES CERTIFYING THAT THE INDIVIDUAL IS LAWFULLY PRESENT IN THE**  
5 **UNITED STATES IN ACCORDANCE WITH FEDERAL LAW.**

6                                   **Article – Public Safety**

7           **3–508.**

8           **(A) IN THIS SECTION, “LAW ENFORCEMENT AGENCY” HAS THE MEANING**  
9 **STATED IN § 2–101 OF THIS ARTICLE.**

10           **(B) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL ENTER**  
11 **INTO A WRITTEN AGREEMENT BETWEEN THE LAW ENFORCEMENT AGENCY AND**  
12 **THE ATTORNEY GENERAL OF THE UNITED STATES BY WHICH A LAW**  
13 **ENFORCEMENT OFFICER OF THE AGENCY MAY CARRY OUT THE FUNCTIONS OF**  
14 **AN IMMIGRATION OFFICER AS TO THE INVESTIGATION, APPREHENSION, OR**  
15 **DETENTION OF ALIENS WHO ARE NOT LAWFULLY PRESENT IN THE UNITED**  
16 **STATES.**

17           **(C) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL PROVIDE**  
18 **APPROPRIATE TRAINING IN FEDERAL IMMIGRATION LAW TO EACH LAW**  
19 **ENFORCEMENT OFFICER THAT WILL BE PERFORMING IMMIGRATION**  
20 **ENFORCEMENT AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.**

21           **(D) (1) NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS**  
22 **PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT**  
23 **AGENCY MAY TRANSPORT AN ALIEN WHO IS IN THE AGENCY’S CUSTODY AND FOR**  
24 **WHOM THE AGENCY HAS RECEIVED VERIFICATION OF THE ALIEN’S UNLAWFUL**  
25 **PRESENCE IN THE UNITED STATES TO A FEDERAL FACILITY IN THE STATE OR**  
26 **TO A POINT OF TRANSFER INTO FEDERAL CUSTODY THAT IS OUTSIDE THE**  
27 **JURISDICTION OF THE LAW ENFORCEMENT AGENCY.**

28                           **(2) A LAW ENFORCEMENT AGENCY SHALL OBTAIN**  
29 **AUTHORIZATION FROM THE COURT BEFORE TRANSPORTING AN ALIEN UNDER**  
30 **THIS SUBSECTION TO A POINT OF TRANSFER OUTSIDE THE STATE.**

31           **3–509.**

32           **(A) IN THIS SECTION, “LOCAL GOVERNMENT” MEANS A COUNTY OR**  
33 **MUNICIPAL CORPORATION.**

1           **(B) ALL OFFICIALS, PERSONNEL, AND AGENTS OF A LOCAL**  
2 **GOVERNMENT SHALL FULLY COMPLY WITH AND SUPPORT THE ENFORCEMENT**  
3 **OF FEDERAL LAW PROHIBITING THE ENTRY INTO OR PRESENCE OR RESIDENCE**  
4 **IN THE UNITED STATE OF ILLEGAL ALIENS IN VIOLATION OF FEDERAL**  
5 **IMMIGRATION LAW.**

6           **(C) A LOCAL GOVERNMENT MAY NOT RESTRICT ITS OFFICIALS,**  
7 **PERSONNEL, OR AGENTS FROM REQUESTING, OBTAINING, SENDING, RECEIVING,**  
8 **EXCHANGING, OR MAINTAINING INFORMATION REGARDING THE IMMIGRATION**  
9 **STATUS OF AN INDIVIDUAL.**

10           **(D) A LOCAL GOVERNMENT SHALL IMPLEMENT THE REQUIREMENTS**  
11 **AND OBLIGATIONS OF THIS SECTION IN A MANNER THAT:**

12                   **(1) IS FULLY CONSISTENT WITH FEDERAL LAW REGULATING**  
13 **IMMIGRATION; AND**

14                   **(2) PROTECTS THE CIVIL RIGHTS OF ALL U.S. CITIZENS AND**  
15 **ALIENS.**

16           **(E) A LOCAL GOVERNMENT MAY NOT CONSTRUE THIS SECTION TO**  
17 **PROHIBIT ITS OFFICIALS, PERSONNEL, OR AGENTS FROM:**

18                   **(1) RENDERING EMERGENCY CARE OR ANY OTHER PUBLIC**  
19 **BENEFIT MANDATED BY FEDERAL OR STATE LAW; OR**

20                   **(2) REPORTING CRIMINAL ACTIVITY TO A LAW ENFORCEMENT**  
21 **AGENCY.**

22                                   **Article – State Government**

23           **8-502.1.**

24           **(A) THIS SECTION APPLIES TO:**

25                   **(1) A CIVIL OFFICER OR EMPLOYEE OF A UNIT OF STATE**  
26 **GOVERNMENT OR OF A POLITICAL SUBDIVISION OF THE STATE; AND**

27                   **(2) AN ELECTED OR APPOINTED OFFICER OF THE STATE SUBJECT**  
28 **TO IMPEACHMENT UNDER THE MARYLAND CONSTITUTION.**

29           **(B) A REGISTERED VOTER UNDER THE LAWS OF THIS STATE MAY:**

1           **(1) FILE A COMPLAINT FOR DECLARATORY JUDGMENT AND**  
2 **INJUNCTIVE RELIEF UNDER § 3-408.2 OF THE COURTS ARTICLE AGAINST AN**  
3 **OFFICER OR EMPLOYEE SUBJECT TO THIS SECTION ALLEGING THAT THE**  
4 **OFFICER OR EMPLOYEE:**

5                   **(I) HAS ACTED OR DIRECTED THE ACTIONS OF ANOTHER**  
6 **PERSON IN THE STATE IN A MANNER THAT VIOLATES, CONFLICTS WITH, OR IS**  
7 **OTHERWISE PREEMPTED BY THE IMMIGRATION LAWS OF THE UNITED STATES;**

8                   **(II) HAS AUTHORIZED A PERSON OTHER THAN A CITIZEN OF**  
9 **THE UNITED STATES TO VOTE IN A FEDERAL, STATE, OR LOCAL ELECTION**  
10 **REQUIRED TO BE CONDUCTED IN ACCORDANCE WITH THE ELECTION LAW**  
11 **ARTICLE; OR**

12                   **(III) HAS ACTED OR DIRECTED THE ACTIONS OF ANY PERSON**  
13 **IN THE STATE IN A MANNER THAT INFRINGES ON OR RESTRICTS IN ANY MANNER**  
14 **A PRIVILEGE OR IMMUNITY OF A CITIZEN OF THE UNITED STATES DOMICILED**  
15 **IN THIS STATE; AND**

16           **(2) REQUEST THAT ON A FINDING OF A VIOLATION OF**  
17 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT DECLARE THAT:**

18                   **(I) AS TO A CIVIL OFFICER OR EMPLOYEE, THE OFFICER OR**  
19 **EMPLOYEE IS SUBJECT TO THE SUSPENSION AND REMOVAL SANCTIONS**  
20 **PRESCRIBED UNDER § 8-502(A) OF THIS SUBTITLE; OR**

21                   **(II) AS TO AN ELECTED OR APPOINTED OFFICER SUBJECT**  
22 **TO IMPEACHMENT UNDER THE MARYLAND CONSTITUTION, THE OFFICER BE**  
23 **REFERRED TO THE GENERAL ASSEMBLY FOR IMPEACHMENT.**

24           **(C) A PERSON HAS STANDING TO FILE A COMPLAINT UNDER THIS**  
25 **SECTION AGAINST AN OFFICER OR EMPLOYEE SUBJECT TO THIS SECTION ONLY**  
26 **AFTER THE PERSON EXHAUSTS ALL ADMINISTRATIVE REMEDIES AVAILABLE BY**  
27 **LAW OR REGULATION TO THE PERSON.**

28           **(D) IF THE COURT DETERMINES THAT AN OFFICER OR EMPLOYEE**  
29 **AGAINST WHOM A COMPLAINT IS FILED HAS ENGAGED IN A PATTERN OR**  
30 **PRACTICE OF ACTS OF THE TYPE FOR WHICH DECLARATORY AND INJUNCTIVE**  
31 **RELIEF IS SOUGHT UNDER THIS SECTION, THE COURT MAY DIRECT THAT THE**  
32 **OFFICER OR EMPLOYEE PROVIDE THE COMPLAINANT REIMBURSEMENT FOR**  
33 **REASONABLE ATTORNEY'S FEES AND COSTS.**

34           **(E) AN ACTION FOR AN EQUITABLE REMEDY FOR DECLARATORY**  
35 **JUDGMENT AND INJUNCTIVE RELIEF AS PRESCRIBED UNDER THIS SECTION IS**

1 NOT AVAILABLE TO A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES  
2 OR A LEGAL PERMANENT RESIDENT ALIEN IN THE UNITED STATES.

3 **SUBTITLE 13. PROOF OF LAWFUL PRESENCE TO RECEIVE PUBLIC BENEFITS.**

4 **10-1301.**

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (B) "EMERGENCY MEDICAL CONDITION" HAS THE MEANING STATED IN  
8 42 U.S.C. § 1396B(v)(3).

9 (C) "FEDERAL PUBLIC BENEFITS" HAS THE MEANING STATED IN 8  
10 U.S.C. § 1611.

11 (D) "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL  
12 CORPORATION IN THE STATE.

13 (E) "SAVE PROGRAM" MEANS THE FEDERAL SYSTEMATIC ALIEN  
14 VERIFICATION OF ENTITLEMENT PROGRAM OPERATED BY THE UNITED STATES  
15 DEPARTMENT OF HOMELAND SECURITY.

16 (F) "STATE OR LOCAL PUBLIC BENEFITS" HAS THE MEANING STATED IN  
17 8 U.S.C. § 1621.

18 (G) "STATE UNIT" MEANS A PRINCIPAL DEPARTMENT, OFFICE,  
19 COMMISSION, COUNCIL, OR OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE  
20 GOVERNMENT.

21 **10-1302.**

22 IT IS THE POLICY OF THE STATE THAT ALL ADULTS SHALL PROVIDE  
23 PROOF THAT THEY ARE LAWFULLY PRESENT IN THE UNITED STATES BEFORE  
24 RECEIVING PUBLIC BENEFITS IN THE STATE.

25 **10-1303.**

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR AS  
27 EXEMPTED BY FEDERAL LAW, EACH STATE UNIT AND EACH POLITICAL  
28 SUBDIVISION OF THE STATE SHALL VERIFY THE LAWFUL PRESENCE IN THE  
29 UNITED STATES OF EACH ADULT WHO APPLIES FOR FEDERAL PUBLIC BENEFITS  
30 OR STATE OR LOCAL PUBLIC BENEFITS.

1           **(B) VERIFICATION OF LAWFUL PRESENCE UNDER SUBSECTION (A) OF**  
2 **THIS SECTION IS NOT REQUIRED FOR:**

3                   **(1) ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE UNITED**  
4 **STATES IS NOT REQUIRED BY LAW, ORDINANCE, OR RULE;**

5                   **(2) ANY HEALTH CARE SERVICES OR ITEMS NECESSARY TO TREAT**  
6 **A PERSON'S EMERGENCY MEDICAL CONDITION AND THAT ARE NOT RELATED TO**  
7 **AN ORGAN TRANSPLANT PROCEDURE;**

8                   **(3) PRENATAL CARE;**

9                   **(4) SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER**  
10 **RELIEF;**

11                   **(5) PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS AND**  
12 **TREATING COMMUNICABLE DISEASE SYMPTOMS REGARDLESS OF WHETHER THE**  
13 **SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE; AND**

14                   **(6) PROGRAMS, SERVICES, OR ASSISTANCE, INCLUDING FOOD**  
15 **AND MEAL PROVIDING FACILITIES, CRISIS COUNSELING AND INTERVENTION**  
16 **PROGRAMS, AND SHORT-TERM SHELTER, SPECIFIED BY FEDERAL LAW OR**  
17 **REGULATION THAT:**

18                           **(I) DELIVER IN-KIND SERVICES AT THE COMMUNITY**  
19 **LEVEL, INCLUDING SERVICES THROUGH PUBLIC OR PRIVATE NONPROFIT**  
20 **AGENCIES;**

21                           **(II) DO NOT CONDITION THE PROVISION, AMOUNT, OR COST**  
22 **OF ASSISTANCE PROVIDED BASED ON THE PERSON'S INCOME OR RESOURCES;**  
23 **AND**

24                           **(III) ARE NECESSARY FOR THE PROTECTION OF LIFE OR**  
25 **SAFETY.**

26           **(C) EACH APPLICANT FOR FEDERAL PUBLIC BENEFITS OR STATE OR**  
27 **LOCAL PUBLIC BENEFITS SHALL BE REQUIRED TO:**

28                   **(1) PRODUCE:**

29                           **(I) A VALID MARYLAND DRIVER'S LICENSE OR**  
30 **IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION;**

(II) A UNITED STATES MILITARY CARD OR MILITARY  
DEPENDENT'S IDENTIFICATION CARD;

(III) A UNITED STATES MERCHANT MARINE CARD; OR

(IV) A NATIVE AMERICAN TRIBAL DOCUMENT; AND

(2) EXECUTE AN AFFIDAVIT STATING THAT THE PERSON IS:

(I) A UNITED STATES CITIZEN OR LEGAL PERMANENT  
RESIDENT; OR

(II) OTHERWISE LAWFULLY PRESENT IN THE UNITED  
STATES UNDER FEDERAL LAW.

(D) NOTWITHSTANDING SUBSECTION (C)(1) OF THIS SECTION, A STATE  
UNIT MAY ADOPT REGULATIONS AUTHORIZING THE USE OF ADDITIONAL FORMS  
OF IDENTIFICATION OR A WAIVER PROCESS TO ENSURE THE LAWFUL PRESENCE  
IN THE UNITED STATES OF ADULTS WHO ARE APPLYING FOR FEDERAL PUBLIC  
BENEFITS OR STATE OR LOCAL PUBLIC BENEFITS.

**10-1304.**

(A) AS OF JANUARY 1, 2012, A STATE UNIT OR POLITICAL SUBDIVISION  
MAY NOT PROVIDE FEDERAL PUBLIC BENEFITS OR STATE OR LOCAL PUBLIC  
BENEFITS TO AN ADULT WHO IS NOT LAWFULLY PRESENT IN THE UNITED  
STATES.

(B) (1) A PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR  
FRAUDULENT STATEMENT OR AFFIDAVIT UNDER § 10-1303(C) OF THIS  
SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO  
IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF NOT MORE THAN \$1,000  
OR BOTH.

(2) EACH RECEIPT OF A PUBLIC BENEFIT CONSTITUTES A  
SEPARATE VIOLATION UNDER THIS SUBSECTION.

**10-1305.**

(A) FOR EACH APPLICANT WHO EXECUTES AN AFFIDAVIT UNDER §  
10-1303(C)(2) OF THIS SUBTITLE, A STATE UNIT OR POLITICAL SUBDIVISION  
SHALL VERIFY THE LAWFUL PRESENCE OF THE APPLICANT THROUGH THE  
SAVE PROGRAM OR ANY SUCCESSOR PROGRAM DESIGNATED BY THE UNITED  
STATES DEPARTMENT OF HOMELAND SECURITY.

1           **(B) UNTIL COMPLETION OF THE VERIFICATION OF LAWFUL PRESENCE**  
2 **UNDER SUBSECTION (A) OF THIS SECTION, THE APPLICANT'S AFFIDAVIT MAY BE**  
3 **PRESUMED TO BE PROOF OF LAWFUL PRESENCE FOR PURPOSES OF THIS**  
4 **SECTION.**

5 **10-1306.**

6           **(A) A STATE UNIT OR A POLITICAL SUBDIVISION MAY ADOPT**  
7 **MODIFICATIONS TO THE REQUIREMENTS OF § 10-1303(C) OF THIS SUBTITLE TO:**

8                   **(1) IMPROVE EFFICIENCY OR REDUCE DELAYS IN THE**  
9 **VERIFICATION PROCESS; OR**

10                   **(2) PROVIDE FOR THE ADJUDICATION OF UNIQUE INDIVIDUAL**  
11 **CIRCUMSTANCES IN WHICH THE VERIFICATION REQUIREMENTS UNDER THIS**  
12 **SUBTITLE WOULD IMPOSE AN UNDUE HARDSHIP ON A LEGAL RESIDENT OF THE**  
13 **STATE.**

14           **(B) ANY MODIFICATION TO A REQUIREMENT ADOPTED UNDER THIS**  
15 **SECTION SHALL BE AT LEAST AS STRINGENT AS THE REQUIREMENTS OF §**  
16 **10-1303 OF THIS SUBTITLE.**

17 **10-1307.**

18           **EACH STATE UNIT THAT PROVIDES FEDERAL PUBLIC BENEFITS OR STATE**  
19 **OR LOCAL PUBLIC BENEFITS SHALL:**

20                   **(1) REPORT ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE**  
21 **WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON ITS**  
22 **COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND**

23                   **(2) REPORT ERRORS AND SIGNIFICANT DELAYS BY THE SAVE**  
24 **PROGRAM TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.**

25 **10-1308.**

26           **EXCEPT AS PROVIDED IN FEDERAL LAW, A STATE UNIT OR POLITICAL**  
27 **SUBDIVISION MAY NOT BE PROHIBITED FROM OR IN ANY WAY RESTRICTED**  
28 **FROM SENDING, RECEIVING, OR MAINTAINING INFORMATION RELATED TO THE**  
29 **IMMIGRANT STATUS OF ANY PERSON OR FROM EXCHANGING THAT**  
30 **INFORMATION WITH ANY OTHER FEDERAL AGENCY, STATE UNIT, OR POLITICAL**  
31 **SUBDIVISION IN ORDER TO:**

1           **(1) DETERMINE ELIGIBILITY FOR A STATE OR LOCAL PUBLIC**  
2 **BENEFIT UNDER THIS SUBTITLE; OR**

3           **(2) VERIFY A CLAIM OR RESIDENCE OR DOMICILE IF THE**  
4 **DETERMINATION OF RESIDENCE OR DOMICILE IS REQUIRED UNDER THE LAWS**  
5 **OF THE STATE OR A JUDICIAL ORDER ISSUED IN A CIVIL OR CRIMINAL**  
6 **PROCEEDING IN THE STATE.**

7                           **Article – Transportation**

8   16–122.

9           (a) (1) Notwithstanding any other provision of this article, the  
10 Administration shall, subject to the provisions of this section, issue or renew an  
11 identification card, a moped operator's permit, or a license to drive that is not  
12 acceptable by federal agencies for official purposes determined by the Secretary of the  
13 United States Department of Homeland Security if an applicant:

14                           (i) 1. Has an unresolved non-match described under §  
15 16–121 of this subtitle;

16   2. Meets the requirements concerning the  
17 non-match contained in regulations adopted by the Administration that are consistent  
18 with regulations adopted by the Secretary of the United States Department of  
19 Homeland Security; and

20   3. Would be otherwise eligible under this article for the  
21 issuance or renewal of an identification card under § 12–301 of this article, a moped  
22 operator's permit under § 16–104.2 of this subtitle, or a license to drive under this  
23 title, but for the unresolved non-match; or

24   (ii) 1. Was the holder of an identification card under §  
25 12–301 of this article, a moped operator's permit under § 16–104.2 of this subtitle, or a  
26 license to drive under this subtitle issued or renewed by the Administration before  
27 April 19, 2009;

28   2. Does not provide satisfactory documentary evidence  
29 that the applicant has lawful status or a valid Social Security number;

30   3. Certifies that the applicant does not have a Social  
31 Security number; and

32   4. Would be otherwise eligible for issuance or renewal of  
33 an identification card under § 12–301 of this article, a moped operator's permit under §  
34 16–104.2 of this subtitle, or a license to drive issued under this subtitle, but for the  
35 absence of documentary evidence described in item 2 of this item.



(2) The Administration may not issue or renew an identification card, moped operator's permit, or license to drive under paragraph [(a)(1)(ii)] **(1)(II)** of this subsection on or after [July 1, 2015] **JANUARY 1, 2012**.

(3) (I) 1. BY CERTIFIED MAIL, THE ADMINISTRATION SHALL NOTIFY EACH HOLDER OF AN IDENTIFICATION CARD, MOPEL OPERATOR'S PERMIT, OR LICENSE TO DRIVE ISSUED OR RENEWED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION BETWEEN JULY 1, 2010, THROUGH OCTOBER 1, 2011, OF THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION AND THIS PARAGRAPH.

2. IN ITS NOTIFICATION UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE ADMINISTRATION SHALL REQUIRE EACH HOLDER OF AN IDENTIFICATION CARD, MOPEL OPERATOR'S PERMIT, OR LICENSE TO DRIVE ISSUED OR RENEWED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION FROM JULY 1, 2010, UNTIL OCTOBER 1, 2011, TO APPEAR AT AN ADMINISTRATION OFFICE TO RECEIVE A SUBSTITUTE IDENTIFICATION CARD, MOPEL OPERATOR'S PERMIT, OR LICENSE TO DRIVE THAT WILL EXPIRE ON JANUARY 1, 2012.

(II) An identification card, moped operator's permit, or license to drive issued or renewed under paragraph [(a)(1)(ii)] **(1)(II)** of this subsection on or after [July 1, 2010, shall expire on July 1, 2015] **OCTOBER 1, 2011, SHALL EXPIRE ON JANUARY 1, 2012**.

(4) This subsection does not apply to any provision of law applicable to the issuance or renewal of a commercial driver's license under this title.

#### **Article 41 – Governor – Executive and Administrative Departments**

4–405.

(a) If the executive director finds that a county is not complying with the maintenance of effort provisions of § 4–402 of this subtitle[,] **OR THAT A COUNTY OR MUNICIPAL CORPORATION IS NOT COMPLYING WITH THE PROVISIONS OF § 3–509 OF THE PUBLIC SAFETY ARTICLE**, the executive director shall notify the subdivision or qualifying municipality of such noncompliance.

(b) If a subdivision or qualifying municipality disputes the finding within 30 days of the issuance of such notice, the dispute shall be promptly referred to the Secretary of the Department of Budget and Management, who shall make a final determination.

(c) Upon receipt of certification of noncompliance by the executive director or the Secretary of the Department of Budget and Management, as the case may be, the

1 Comptroller shall suspend, until notification of compliance is received, payment of any  
2 funds due the subdivision or qualifying municipality for the current fiscal year, as  
3 provided in § 4-403 of this subtitle, to the extent that the State's aid due the  
4 subdivision or qualifying municipality in the current fiscal year under that section  
5 exceeds the amount which the subdivision or qualifying municipality received in the  
6 prior fiscal year.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2011.