

HB1362/282717/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 1362
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Criminal Procedure – Immigration – Community Trust”; in line 3, after the first “of” insert “providing that a certain official is immune from criminal and civil liability for refusing to provide information to the federal government or another state that will be used for a certain purpose; authorizing the State to indemnify a certain official for certain costs or a certain judgment;”; in the same line, strike “restore” and substitute “maintain”; in line 4, after “Maryland” insert “governmental operations and”; in the same line, strike “and government”; in the same line, after “of” insert “State and”; strike beginning with “prohibiting” in line 5 down through “purposes;” in line 6; strike beginning with “official” in line 7 down through “warrant;” in line 15 and substitute “agent from taking certain actions at a certain time under certain circumstances; prohibiting a State or local correctional agent or employee from taking certain actions under certain circumstances; prohibiting a certain officer or unit of State government from spending certain funds for a certain purpose; prohibiting the State from reimbursing certain expenditures; providing that the State is not obligated to appropriate money to pay a certain expenditure; providing that a certain employee or officer who makes a certain expenditure or receives certain funds is subject to certain disciplinary action under certain provisions of law;”; in line 16, strike “requiring” and substitute “authorizing”; in line 18, strike “State”; and in the same line, after “agent” insert “or employee”.

On pages 1 and 2, strike beginning with “establishing” in line 21 on page 1 down through “time;” in line 1 on page 2 and substitute “requiring certain memoranda of agreement to be initiated and evaluated in a certain manner;”.

On page 2, after line 3, insert:

“BY adding to

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Article – Courts and Judicial Proceedings
Section 5-527
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)”;

and after line 8, insert:

“BY adding to
Article – State Finance and Procurement
Section 7-239
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 10, insert:

“Article – Courts and Judicial Proceedings

5-527.

(A) AN OFFICIAL OF STATE GOVERNMENT OR A LOCAL GOVERNMENT IS IMMUNE FROM CRIMINAL AND CIVIL LIABILITY FOR REFUSING TO PROVIDE INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE THAT WILL BE USED FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.

(B) THE STATE MAY INDEMNIFY AN OFFICIAL OF STATE GOVERNMENT OR A LOCAL GOVERNMENT FOR ANY COSTS ASSOCIATED WITH OR ANY JUDGMENT IN AN ACTION OR SUIT FILED BASED ON THE OFFICIAL’S REFUSAL TO PROVIDE

INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE THAT WILL BE USED FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.”.

AMENDMENT NO. 3

Strike in their entirety the lines beginning with line 15 on page 2 through line 10 on page 3, and substitute:

“(2) “ADMINISTRATIVE IMMIGRATION DETAINER” MEANS A DETAINER FOR A VIOLATION OF FEDERAL IMMIGRATION LAW THAT WAS NOT ISSUED BY A FEDERAL JUDGE OR FEDERAL MAGISTRATE JUDGE.”.

On page 3, in lines 11 and 15, strike “(5)” and “(6)”, respectively, and substitute “(3)” and “(4)”, respectively; in line 13, strike “CIVIL”; strike beginning with the first comma in line 13 down through “CODE” in line 14; strike in their entirety lines 19 and 20 and substitute:

“(5) “LAW ENFORCEMENT AGENT” INCLUDES:

(I) A LAW ENFORCEMENT OFFICER, AS DEFINED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE;

(II) A CHIEF OF A LAW ENFORCEMENT AGENCY, AS DEFINED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE; AND

(III) AN AGENT OR EMPLOYEE OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY.

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(6) “LOCAL CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.

(7) “STATE CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.

(8) (I) “STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE” MEANS AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR LOCAL CORRECTIONAL FACILITY.

(II) “STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE” DOES NOT INCLUDE A SHERIFF OR AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR A LOCAL CORRECTIONAL FACILITY IF THE SHERIFF, AGENT, OR EMPLOYEE IS AUTHORIZED, TRAINED, AND SWORN TO PERFORM THE FUNCTIONS OF AN IMMIGRATION OFFICER PURSUANT TO A MEMORANDUM OF AGREEMENT WITH THE OFFICE OF THE UNITED STATES ATTORNEY GENERAL.”;

in line 21, strike “RESTORE” and substitute “MAINTAIN”; and in line 22, strike “LAW ENFORCEMENT AND GOVERNMENT” and substitute “GOVERNMENTAL OPERATIONS AND LAW ENFORCEMENT”.

AMENDMENT NO. 4

On pages 3 through 5, strike in their entirety the lines beginning with line 25 on page 3 through line 19 on page 5, inclusive, and substitute:

“(C) A LAW ENFORCEMENT AGENT MAY NOT, DURING THE PERFORMANCE OF REGULAR POLICE FUNCTIONS:

(1) INQUIRE ABOUT AN INDIVIDUAL'S IMMIGRATION STATUS, CITIZENSHIP STATUS, OR PLACE OF BIRTH DURING A STOP, SEARCH, OR ARREST;
OR

(2) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES UNLESS REQUIRED BY FEDERAL LAW.

(D) WITHOUT A JUDICIAL WARRANT, A LAW ENFORCEMENT AGENT MAY NOT, PURSUANT TO A REQUEST BY FEDERAL IMMIGRATION AUTHORITIES MADE SOLELY FOR IMMIGRATION ENFORCEMENT PURPOSES:

(1) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES FOR PURPOSES OF IMMIGRATION ENFORCEMENT;

(2) DETAIN AN INDIVIDUAL SOLELY FOR THE PURPOSE OF IMMIGRATION ENFORCEMENT; OR

(3) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF AN INDIVIDUAL'S LOCATION OR ADDRESS.

(E) WITHOUT A JUDICIAL WARRANT, A STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE MAY NOT:

(1) DETAIN AN INDIVIDUAL PURSUANT TO AN ADMINISTRATIVE IMMIGRATION DETAINER; OR

(2) DETAIN AN INDIVIDUAL BEYOND THE PERIOD PRESCRIBED BY APPLICABLE STATE OR LOCAL LAW."

On page 5, in line 20, strike “(I)” and substitute “(F)”; in the same line, strike “GOVERNMENT AGENT” and substitute “LAW ENFORCEMENT AGENT OR A STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE”; and strike beginning with “PURSUANT” in line 29 down through “CODE” in line 30 and substitute “IN ACCORDANCE WITH FEDERAL LAW”.

AMENDMENT NO. 5

On page 5, after line 30, insert:

“Article – State Finance and Procurement

7-239.

(A) AN OFFICER OR UNIT OF STATE GOVERNMENT MAY NOT SPEND MONEY FROM AN APPROPRIATION, AND A PERSON THAT RECEIVES STATE FUNDS MAY NOT USE THE STATE FUNDS, TO:

(1) KNOWINGLY CREATE OR MAINTAIN A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN; OR

(2) KNOWINGLY PROVIDE INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.

(B) (1) THE STATE MAY NOT REIMBURSE ANY EXPENDITURE TO THE EXTENT THAT THE EXPENDITURE VIOLATES SUBSECTION (A) OF THIS SECTION.

(2) THE STATE IS NOT OBLIGATED TO APPROPRIATE MONEY TO PAY AN EXPENDITURE THAT VIOLATES SUBSECTION (A) OF THIS SECTION.

(C) EACH EMPLOYEE OR OFFICER OF THE STATE GOVERNMENT WHO MAKES AN EXPENDITURE OR RECEIVES STATE FUNDS THAT VIOLATE SUBSECTION (A) OF THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION, INCLUDING TERMINATION, UNDER THE APPLICABLE DISCIPLINARY AND GRIEVANCE PROCEDURES IN TITLES 11 AND 12 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Attorney General, in consultation with the appropriate stakeholders, shall develop guidelines to assist public schools, hospitals, and courthouses to draft policies that limit civil immigration enforcement activities on their premises in order to ensure these facilities remain safe and accessible to all, regardless of immigration status.

SECTION 3. AND BE IT FURTHER ENACTED, That public schools, hospitals, and courthouses may establish and publish policies that limit immigration enforcement on their premises to the fullest extent possible consistent with federal and State law based on the guidelines developed by the Attorney General.”.

AMENDMENT NO. 6

On page 6, in lines 1, 13, and 18, strike “2.”, “4.”, and “5.”, respectively, and substitute “4.”, “6.”, and “7.”, respectively; and strike in their entirety lines 9 through 12, inclusive, and substitute:

“SECTION 5. AND BE IT FURTHER ENACTED, That memoranda of agreement between the Office of the United States Attorney General and local jurisdictions seeking to support or assist in civil immigration enforcement operations pursuant to federal immigration law or any other formal or informal law, regulation, or policy, shall be

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initiated and periodically evaluated through a process that is transparent, subject to public comment, and provides reasonable advance notice to the public.”.