

SENATE BILL 817

E2, E4

9lr1576
CF 9lr2224

By: **Senators Smith, Augustine, Carter, Feldman, Ferguson, Guzzone, Kelley, Lam, Lee, Nathan–Pulliam, Pinsky, Waldstreicher, Washington, Young, and Zucker**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Facilities and Police Officers – Procedures – Immigration Status**

3 FOR the purpose of prohibiting an employee or agent of a correctional facility from
4 detaining a certain person beyond a certain date or notifying federal immigration
5 authorities of certain information about a certain person except under certain
6 circumstances; prohibiting a police officer from inquiring about certain information
7 under certain circumstances; defining certain terms; making the provisions of this
8 Act severable; and generally relating to the procedures of correctional facilities and
9 police officers pertaining to immigration status.

10 BY repealing and reenacting, without amendments,
11 Article – Correctional Services
12 Section 1–101(a) and (d)
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2018 Supplement)

15 BY adding to
16 Article – Correctional Services
17 Section 9–617
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2018 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Criminal Procedure
22 Section 2–101(a) and (c)
23 Annotated Code of Maryland
24 (2018 Replacement Volume)

25 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Procedure
2 Section 2–109
3 Annotated Code of Maryland
4 (2018 Replacement Volume)

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

7 **Article – Correctional Services**

8 1–101.

9 (a) In this article the following words have the meanings indicated.

10 (d) “Correctional facility” means a facility that is operated for the purpose of
11 detaining or confining adults who are charged with or found guilty of a crime.

12 **9–617.**

13 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
14 **INDICATED.**

15 **(2) “FEDERAL JUDICIAL WARRANT” MEANS A WARRANT THAT:**

16 **(I) IS ISSUED BY A FEDERAL JUDGE OR FEDERAL MAGISTRATE**
17 **JUDGE ON THE BASIS THAT THERE IS PROBABLE CAUSE TO BELIEVE A CRIME HAS**
18 **BEEN COMMITTED; AND**

19 **(II) AUTHORIZES FEDERAL IMMIGRATION AUTHORITIES TO**
20 **TAKE INTO CUSTODY THE PERSON WHO IS THE SUBJECT OF THE WARRANT.**

21 **(3) “STATE–LAW RELEASE DATE” MEANS THE DATE ON WHICH A**
22 **PERSON IS REQUIRED UNDER STATE LAW TO BE RELEASED FROM CONFINEMENT**
23 **FROM A STATE OR LOCAL CORRECTIONAL FACILITY.**

24 **(B) AN EMPLOYEE OR AGENT OF A CORRECTIONAL FACILITY MAY NOT,**
25 **WITHOUT A FEDERAL JUDICIAL WARRANT:**

26 **(1) DETAIN A PERSON BEYOND THE PERSON’S STATE–LAW RELEASE**
27 **DATE; OR**

28 **(2) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF THE PERSON’S**
29 **STATE–LAW RELEASE DATE, LOCATION, OR ADDRESS ONLY FOR IMMIGRATION**
30 **ENFORCEMENT PURPOSES.**

Article – Criminal Procedure

1
2 2–101.

3 (a) In this title the following words have the meanings indicated.

4 (c) “Police officer” means a person who in an official capacity is authorized by law
5 to make arrests and is:

6 (1) a member of the Department of State Police;

7 (2) a member of the Police Department of Baltimore City;

8 (3) a member of the Baltimore City School Police Force;

9 (4) a member of the police department, bureau, or force of a county;

10 (5) a member of the police department, bureau, or force of a municipal
11 corporation;

12 (6) a member of the Maryland Transit Administration Police Force or
13 Maryland Transportation Authority Police Force;

14 (7) a member of the University System of Maryland Police Force or Morgan
15 State University Police Force;

16 (8) a special police officer who is appointed to enforce the law and maintain
17 order on or protect property of the State or any of its units;

18 (9) a member of the Maryland Capitol Police of the Department of General
19 Services;

20 (10) the sheriff of a county whose usual duties include the making of arrests;

21 (11) a regularly employed deputy sheriff of a county who is compensated by
22 the county and whose usual duties include the making of arrests;

23 (12) a member of the Natural Resources Police Force of the Department of
24 Natural Resources;

25 (13) an authorized employee of the Field Enforcement Bureau of the
26 Comptroller’s Office;

27 (14) a member of the Maryland–National Capital Park and Planning
28 Commission Park Police;

29 (15) a member of the Housing Authority of Baltimore City Police Force;

1 (16) a member of the Crofton Police Department;

2 (17) a member of the WMATA Metro Transit Police, subject to the
3 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area
4 Transit Authority Compact, which is codified at § 10–204 of the Transportation Article;

5 (18) a member of the Intelligence and Investigative Division of the
6 Department;

7 (19) a member of the State Forest and Park Service Police Force of the
8 Department of Natural Resources;

9 (20) a member of the Department of Labor, Licensing, and Regulation Police
10 Force;

11 (21) a member of the Washington Suburban Sanitary Commission Police
12 Force;

13 (22) a member of the Ocean Pines Police Department;

14 (23) a member of the police force of the Baltimore City Community College;

15 (24) a member of the police force of the Hagerstown Community College;

16 (25) an employee of the Warrant Apprehension Unit of the Division of Parole
17 and Probation in the Department; or

18 (26) a member of the police force of the Anne Arundel Community College.

19 **2–109.**

20 **DURING A STOP, A SEARCH, OR AN ARREST CONDUCTED IN THE**
21 **PERFORMANCE OF REGULAR POLICE FUNCTIONS, A POLICE OFFICER MAY NOT**
22 **INQUIRE ABOUT AN INDIVIDUAL’S IMMIGRATION STATUS, CITIZENSHIP STATUS, OR**
23 **PLACE OF BIRTH.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
25 the application thereof to any person or circumstance is held invalid for any reason in a
26 court of competent jurisdiction, the invalidity does not affect other provisions or any other
27 application of this Act that can be given effect without the invalid provision or application,
28 and for this purpose the provisions of this Act are declared severable.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2019.