

HB0016/468779/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 16
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 9, after “detainees;” insert “prohibiting a law enforcement agent from performing certain acts, subject to certain exceptions;”; and after line 21, insert:

“BY adding to

Article – Criminal Procedure

Section 5–104

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)”.

AMENDMENT NO. 2

On page 5, after line 25, insert:

“Article – Criminal Procedure

5–104.

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

(2) “CIVIL IMMIGRATION VIOLATION” MEANS A VIOLATION OF FEDERAL CIVIL IMMIGRATION LAW.

(3) “FAMILY MEMBER” MEANS A RELATIVE BY BLOOD, ADOPTION, OR MARRIAGE.

(Over)

(4) “HOUSEHOLD MEMBER” MEANS A PERSON WHO LIVES WITH ANOTHER OR IS A REGULAR PRESENCE IN THE HOME OF ANOTHER.

(5) (I) “LAW ENFORCEMENT AGENT” MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION UNDER § 3-209 OF THE PUBLIC SAFETY ARTICLE.

(II) “LAW ENFORCEMENT AGENT” DOES NOT INCLUDE AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR A LOCAL CORRECTIONAL FACILITY.

(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.

(B) (1) IN THIS SUBSECTION, “ARREST” DOES NOT INCLUDE A ROUTINE BOOKING PROCEDURE.

(2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENT MAY NOT, DURING THE PERFORMANCE OF REGULAR POLICE FUNCTIONS:

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

(II) DETAIN, OR PROLONG THE DETENTION OF, AN INDIVIDUAL:

1. FOR THE PURPOSE OF INVESTIGATING THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS; OR

2. BASED ON THE SUSPICION THAT THE INDIVIDUAL HAS COMMITTED A CIVIL IMMIGRATION VIOLATION;

(III) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES UNLESS REQUIRED BY FEDERAL LAW; OR

(IV) COERCE, INTIMIDATE, OR THREATEN ANY INDIVIDUAL BASED ON THE ACTUAL OR PERCEIVED CITIZENSHIP OR IMMIGRATION STATUS OF THE INDIVIDUAL OR:

1. THE INDIVIDUAL'S FAMILY MEMBER;

2. THE INDIVIDUAL'S HOUSEHOLD MEMBER;

3. THE INDIVIDUAL'S LEGAL GUARDIAN; OR

4. ANOTHER INDIVIDUAL FOR WHOM THE INDIVIDUAL IS A LEGAL GUARDIAN.

(3) NOTHING IN THIS SUBSECTION SHALL PREVENT A LAW ENFORCEMENT AGENT FROM INQUIRING ABOUT ANY INFORMATION THAT IS MATERIAL TO A CRIMINAL INVESTIGATION.

(4) IF THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL IS RELEVANT TO A PROTECTION ACCORDED TO THE INDIVIDUAL UNDER STATE OR FEDERAL LAW, OR SUBJECT TO A REQUIREMENT IMPOSED BY INTERNATIONAL TREATY, A LAW ENFORCEMENT AGENT MAY:

(I) NOTIFY THE INDIVIDUAL OF THE PROTECTION OR REQUIREMENT; AND

(II) PROVIDE THE INDIVIDUAL AN OPPORTUNITY TO VOLUNTARILY DISCLOSE THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS FOR THE PURPOSE OF RECEIVING THE PROTECTION OR COMPLYING WITH THE REQUIREMENT."