

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1431
Judiciary

(Delegate Charkoudian, *et al.*)

**State and Local Agencies - Enforcement of Federal Immigration Law -
Restrictions on Access to Information (Maryland Data Privacy Act)**

This bill alters requirements and restrictions relating to access to information for databases operated by State and local law enforcement agencies, and includes any database operated by a unit of State or local government, as specified. The bill requires a law enforcement agency or a unit of State or local government operating a database to deny access to the database to any individual who is or *appears to be* seeking access for the purpose of enforcing federal immigration law, as specified. Each unit of State government must (1) maintain a record of each request by an individual seeking access to a database, record, or information, as specified, and (2) by December 1, 2025, and each year thereafter, provide the Attorney General and the General Assembly specified information relating to requests. The Attorney General must enforce the bill's requirements and establish a system of maximum civil penalties. A State employee who violates the bill's provisions is subject to discipline, including termination of employment.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures, as discussed below. Revenues are likely not materially affected.

Local Effect: Potential minimal increase in local government expenditures, as discussed below. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: A law enforcement agency or a unit of State or local government operating a database must deny access to the database to any individual who is *or appears to be* seeking access for the purpose of enforcing federal immigration law, unless the individual presents a valid warrant issued by a federal court or a court of this State *and clearly identifies the record to be accessed*.

Each unit of State government must:

- maintain a record of each request by an individual seeking access to a database, record, or information, as specified; and
- by December 1, 2025, and each year thereafter, submit a report to the Attorney General and the General Assembly on the number and nature of access requests received, whether the requests were granted or denied, and any other information required to ensure compliance with the bill's provisions.

The Attorney General must enforce the bill's requirements through any means normally available in the enforcement of civil violations and establish a system of maximum civil penalties of \$1,000 per violation.

Current Law: While immigration is controlled by federal law, the U.S. Immigration, Customs, and Enforcement Division (ICE) and Department of Homeland Security have initiated numerous programs that involve state and local law enforcement agencies as allies and additional resources. For example, the Criminal Alien Program (CAP) supports ICE Enforcement and Removal Operations in executing its mission through the arrest and removal of undocumented immigrants who threaten the safety of the nation's communities and the integrity of U.S. immigration laws. CAP focuses on the identification, arrest, and removal of incarcerated undocumented immigrants at federal, state, and local levels, as well as at-large criminal undocumented immigrants.

Federal law does not mandate that state and local law enforcement agencies become involved in immigration efforts. However, federal law does prohibit a state or local government from prohibiting or in any way restricting any government entity or official from sending to or receiving from ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual. It also prohibits restrictions on any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual: (1) sending such information to, or requesting or receiving such information from, ICE; (2) maintaining such information; or (3) exchanging such information with any other federal, state, or local government authority.

Responding to Immigration Detainers

The Office of the Attorney General of Maryland issued a guidance memorandum in [January 2025](#) pertaining to local enforcement of federal immigration law and includes guidance on immigration detainers. Such detainers are notices sent from ICE to state or local law enforcement agencies that request the agency to continue to hold the individual named in the detainer for up to 48 hours past the date that the individual is otherwise eligible for release. The memorandum notes that immigration detainers are requests only and local officers are not obligated to honor them and may risk violating constitutional rights by doing so. A law enforcement agency's decision to comply with a detainer request and hold an individual beyond the individual's normal release date constitutes a new "seizure." That new seizure must be justified under the Fourth Amendment of the U.S. Constitution and the analogous provisions of Article 26 of the Maryland Declaration of Rights. The Attorney General specifically notes that the requirements of the Fourth Amendment do not change because ICE has issued a detainer request to a law enforcement agency.

Database Access

Chapter 18 of the 2021 special session modified Maryland's Public Information Act (PIA) to require an officer, an employee, an agent, or a contractor of the State or a political subdivision to deny inspection of specified records, and deny inspection using facial recognition searches, by any federal agency seeking access for the purpose of enforcing federal immigration law unless provided with a valid warrant. In addition, a person who receives specified personal information under PIA may not disclose the information to a federal agent or federal agency for the purpose of federal immigration enforcement unless presented with a valid warrant. The Motor Vehicle Administration, the Department of State Police, and the Department of Public Safety and Correctional Services must submit a specified annual report to the General Assembly on records requests from federal agencies seeking access for immigration enforcement purposes. In addition, State and local law enforcement agencies and other specified entities that operate a specified database must deny access to the database to an individual seeking access for the purpose of enforcing federal immigration law, unless provided with a valid warrant.

Federal Immigration Detention Agreements

Chapter 19 of the 2021 special session prohibits the State, local governments, and specified State and local agents from (1) entering into an agreement of any kind for the detention of individuals in an immigration detention facility owned, managed, or operated, in whole or in part, by a private entity; (2) paying, reimbursing, subsidizing, or defraying in any way any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned,

managed, or operated, in whole or in part, by a private entity; (3) receiving any payment related to the detention of individuals in an immigration detention facility owned, managed, or operated in whole or in part, by a private entity; or (4) otherwise giving any financial incentive or benefit to any private entity or person in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity.

The State, local governments, and specified State and local agents are prohibited from approving a zoning variance or issuing a permit for the construction of a building or the reuse of existing buildings or structures by any private entity for use as an immigration detention facility unless the entity (1) provides notice to the public of the proposed zoning variance or permit action at least 180 days before authorizing the variance or issuing the permit and (2) solicits and hears public comments on the proposed zoning variance or permit action in at least two separate meetings open to the public.

The State, local governments, and specified State and local agents are prohibited from entering into or renewing an immigration detention agreement. Those with an existing immigration detention agreement must exercise the termination provision contained in the immigration detention agreement no later than October 1, 2022. In any dispute over an immigration detention agreement with the State, these provisions govern. However, the provisions may not be construed to authorize or prohibit the State, local governments, and specified State and local agents from entering into an agreement with the federal government under 8 U.S.C. § 1357(g).

“Immigration detention agreement” means any contract, agreement, intergovernmental service agreement, or a memorandum of understanding that authorizes a State or local government agency to house or detain individuals for federal civil immigration violations. “Immigration detention facility” means any building, facility, or structure used, in whole or in part, to house or detain individuals for federal civil immigration violations.

Immigration Status and Law Enforcement Agents

Chapter 19 further prohibits a law enforcement agent, during the performance of regular police functions from (1) inquiring about an individual’s citizenship, immigration status, or place of birth during a stop, a search, or an arrest; (2) detaining, or prolonging the detention of an individual for the purpose of investigating the individual’s citizenship or immigration status, or based on the suspicion that the individual has committed a civil immigration violation; (3) transferring an individual to federal immigration authorities unless required by federal law; or (4) coercing, intimidating, or threatening any individual based on the actual or perceived citizenship or immigration status of the individual or specified individuals that are generally related to the individual.

Nothing in the provisions prevent a law enforcement agent from inquiring about any information that is material to a criminal investigation.

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 (1) notify the individual of the protection or requirement and (2) 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.

“Civil immigration violation” means a violation of federal civil immigration law.

“Law enforcement agent” means an individual who is certified by the Maryland Police Training and Standards Commission. “Law enforcement agent” does not include an agent or employee of a State correctional facility or local correctional facility. “Arrest” does not include a routine booking procedure.

State/Local Fiscal Effect: The bill specifies various requirements and restrictions that apply to databases operated by State and local law enforcement agencies and units of State and local government. While the Maryland Department of Transportation advises the need for 10 part-time administrators in order to meet the bill's requirements, the Department of Legislative Services disagrees. State and local law enforcement agencies and units of State and local government can likely make system modifications in order to require users to provide specified statements when accessing databases hosted or operated by the agency or unit, as required under the bill, with existing resources. However, general fund and local government expenditures potentially increase minimally for training of State and local government employees to ensure compliance with the bill's requirements.

The bill is not otherwise expected to directly affect State or local finances. It is assumed that State agencies can comply with the bill's annual reporting requirement with existing budgeted resources.

This analysis further assumes that State and local governments adopt policies and procedures to meet the bill's requirements and also ensure compliance with federal law. As such, there is no operational or financial impact on State or local entities. However, federal fund revenues may decrease if the bill's provisions are deemed as noncompliant with federal law.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore, Cecil, Frederick, Montgomery, and Prince George's counties; cities of Annapolis and Frederick; Maryland Municipal League; Alcohol, Tobacco, and Cannabis Commission; Maryland Cannabis Administration; Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; University System of Maryland; Morgan State University; Maryland Department of Agriculture; Department of Budget and Management; Department of General Services; Department of Human Services; Maryland Department of Labor; Department of Natural Resources; Department of State Police; Maryland Insurance Administration; Public Service Commission; Maryland Department of Transportation; Department of Legislative Services

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