

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1222
Judiciary

(Delegate Williams, *et al.*)

Public Safety - Immigration Enforcement (Maryland Values Act)

This bill requires, if requested by federal immigration authorities, an employee or agent of a State or local correctional facility and a law enforcement agent to (1) detain a “covered individual” for up to 48 hours in order to facilitate the transfer of the individual to federal immigration authorities and (2) transfer the individual to federal immigration authorities. In addition, the bill prohibits the State, a unit of local government, a county sheriff, or any agency, officer, employee, or agent of the State or a unit of local government from entering into an immigration enforcement agreement. By July 1, 2025, the State, a unit of local government, a county sheriff, or any agency, officer, employee, or agent of the State or a unit of local government with an existing immigration enforcement agreement must exercise the agreement’s termination provision. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: Although enforcement under the bill is unclear, State expenditures potentially increase minimally, as discussed below. Revenues are not affected.

Local Effect: Although enforcement under the bill is unclear, local government expenditures potentially increase minimally, as discussed below. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

“Covered individual” means an individual who is not lawfully present in the United States and has been convicted of a crime of violence.

Current Law: While immigration is controlled by federal law, the U.S. Immigration, Customs, and Enforcement Division (ICE) and U.S. 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 (OAG) 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.

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 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.

Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

State/Local Fiscal Effect: The OAG guidance memorandum, discussed above, issued in January 2025, pertaining to local enforcement of federal immigration law includes guidance on immigration detainers and advises that enforcement of immigration detainers that do not include a warrant signed by a judge and are not based on probable cause that a crime has been committed may violate an individual's Fourth Amendment rights and subject a law enforcement agency to civil liability. The government bears the burden of proving that a person's detention beyond their State-law release date does not violate the Fourth Amendment and its Maryland counterpart. The memorandum further advises that law enforcement agencies face potential civil liability if they seek to enforce federal

immigration laws, particularly if they do so outside the context of a federal cooperation agreement under 8 U.S.C. § 1357(g)(1). The bill requires the State, a unit of local government, a county sheriff, or any agency, officer, employees, or agent of the State or a unit of local government with an existing immigration enforcement agreement to exercise the termination provision no later than July 1, 2025. Thus, it is unclear to what extent the State, a unit of local government, a county sheriff, or any agency, officer, employee, or agent of the State or a unit of local government is able to meet the bill's requirements beyond July 1, 2025, when the termination of any existing immigration enforcement agreement is required. To the extent that the bill's provisions are enforced, State and local expenditures potentially increase minimally.

Additional Information

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

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Municipal League; Alcohol, Tobacco, and Cannabis Commission; Comptroller's Office; Judiciary (Administrative Office of the Courts); University System of Maryland; Morgan State University; Department of General Services; Department of Juvenile Services; Maryland Department of Labor; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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