

Chapter 173

(House Bill 1017)

AN ACT concerning

Correctional Services – Private ~~Immigration~~ Detention Facilities – Zoning Requirement

FOR the purpose of prohibiting the State or a unit of local government from approving the use of a building ~~or, structure, or other real property for use as an immigration~~ a detention facility by a private entity ~~unless certain zoning authority applies;~~ establishing a certain penalty for a certain violation; authorizing the Attorney General to bring a civil action to enforce this Act; ~~applying this Act retroactively;~~ and generally relating to ~~immigration~~ detention facilities.

BY repealing and reenacting, without amendments,

Article – Correctional Services
Section 1–101(a) and (j)
Annotated Code of Maryland
(2025 Replacement Volume)

BY adding to

Article – Correctional Services
Section 1–103
Annotated Code of Maryland
(2025 Replacement Volume)

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

Article – Correctional Services

1–101.

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

(j) “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.

1–103.

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

(2) (I) “DETENTION FACILITY” MEANS ANY BUILDING, FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR DETAIN INDIVIDUALS FOR CIVIL OR CRIMINAL VIOLATIONS.

(II) “DETENTION FACILITY” INCLUDES AN IMMIGRATION DETENTION FACILITY.

(III) “DETENTION FACILITY” DOES NOT INCLUDE A FACILITY:

1. A. THAT IS A HEALTH CARE FACILITY LICENSED UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE; OR

B. THAT IS A RESIDENTIAL CHILD CARE PROGRAM OR CHILD PLACEMENT AGENCY LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; AND

2. WHOSE PRIMARY PURPOSE IS TO PROVIDE HEALTH CARE, TREATMENT, EDUCATION, OR REHABILITATION SERVICES.

(3) “UNIT OF LOCAL GOVERNMENT” MEANS A COUNTY, A MUNICIPALITY, OR THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE OR A UNIT OF LOCAL GOVERNMENT MAY NOT APPROVE THE CONSTRUCTION OR OPERATION OF A BUILDING, A STRUCTURE, OR OTHER REAL PROPERTY TO BE USED BY A PRIVATE ENTITY AS A DETENTION FACILITY.

(C) A PRIVATE ENTITY MAY NOT OPERATE OR OCCUPY A BUILDING, A STRUCTURE, OR OTHER REAL PROPERTY AS A DETENTION FACILITY.

(D) FOR PURPOSES OF THIS SECTION, A BUILDING, A STRUCTURE, OR OTHER REAL PROPERTY SHALL BE CONSIDERED PROPOSED FOR USE AS A DETENTION FACILITY, REGARDLESS OF HOW THE USE IS DESCRIBED IN AN APPLICATION OR PERMIT REQUEST, IF:

(1) INDIVIDUALS ARE INTENDED TO BE HELD IN INVOLUNTARY CUSTODY AND WILL NOT BE FREE TO LEAVE; OR

(2) THE DESIGN, CONSTRUCTION, OR IMPROVEMENTS INCLUDE FEATURES CONSISTENT WITH SECURE OR INVOLUNTARY CONFINEMENT, INCLUDING:

(I) PERIMETER SECURITY MEASURES DESIGNED TO PREVENT OCCUPANTS FROM LEAVING;

(II) CONTROLLED ACCESS POINTS; OR

(III) LOCKED HOLDING AREAS.

(E) (1) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THIS SECTION.

(2) THE COURT MAY ISSUE TEMPORARY, PRELIMINARY, OR PERMANENT INJUNCTIVE RELIEF TO PREVENT AN ACT THAT WOULD CONSTITUTE A VIOLATION OF THIS SECTION.

(F) A PRIVATE ENTITY THAT OPERATES OR ATTEMPTS TO OPERATE A DETENTION FACILITY IN VIOLATION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH DAY THE VIOLATION CONTINUES.

(G) THE REMEDIES PROVIDED UNDER THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDY AVAILABLE UNDER STATE OR LOCAL LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Correctional Services

1-103.

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

(2) (I) “DETENTION FACILITY” MEANS ANY BUILDING, FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR DETAIN INDIVIDUALS FOR CIVIL OR CRIMINAL VIOLATIONS.

(II) “DETENTION FACILITY” INCLUDES AN IMMIGRATION DETENTION FACILITY.

(III) “DETENTION FACILITY” DOES NOT INCLUDE A FACILITY:

1. A. THAT IS A HEALTH CARE FACILITY LICENSED UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE; OR

B. THAT IS A RESIDENTIAL CHILD CARE PROGRAM OR CHILD PLACEMENT AGENCY LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; AND

2. WHOSE PRIMARY PURPOSE IS TO PROVIDE HEALTH CARE, TREATMENT, EDUCATION, OR REHABILITATION SERVICES.

(3) ~~“UNIT~~ “UNIT OF LOCAL GOVERNMENT” MEANS A COUNTY, A MUNICIPALITY, OR THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE OR A UNIT OF LOCAL GOVERNMENT MAY NOT APPROVE THE ~~USE~~ CONSTRUCTION OR OPERATION OF A BUILDING ~~OR~~, STRUCTURE, OR OTHER REAL PROPERTY AS FOR AN IMMIGRATION DETENTION FACILITY BY A PRIVATE ENTITY TO BE USED BY A PRIVATE ENTITY AS A DETENTION FACILITY UNLESS THE IMMIGRATION DETENTION FACILITY IS EXPRESSLY INCLUDED IN THE APPLICABLE ZONING AUTHORITY BUILDING, STRUCTURE, OR OTHER REAL PROPERTY IS LOCATED IN A ZONE THAT EXPRESSLY AUTHORIZES IMMIGRATION PRIVATE DETENTION FACILITIES.

(2) A GENERAL ZONING CLASSIFICATION AUTHORIZING GOVERNMENT, PUBLIC, OR INSTITUTIONAL USES DOES NOT CONSTITUTE EXPRESS AUTHORIZATION FOR A BUILDING ~~OR~~, STRUCTURE, OR OTHER REAL PROPERTY TO BE USED AS AN IMMIGRATION A DETENTION FACILITY BY A PRIVATE ENTITY.

(3) BEFORE ESTABLISHING A ZONING CLASSIFICATION AUTHORIZING PRIVATE DETENTION FACILITIES, THE STATE OR A UNIT OF LOCAL GOVERNMENT SHALL:

(I) CONSIDER:

1. CONSISTENCY WITH ANY COMPREHENSIVE PLAN FOR THE SURROUNDING AREA;

2. COMPATIBILITY WITH SURROUNDING LAND USES; AND

3. THE ABILITY OF LOCAL INFRASTRUCTURE TO ADEQUATELY SUPPORT A DETENTION FACILITY;

(II) PROVIDE NOTICE TO THE PUBLIC OF THE PROPOSED ZONING CLASSIFICATION AT LEAST 120 DAYS BEFORE ENACTING THE CLASSIFICATION; AND

(III) SOLICIT AND HEAR PUBLIC COMMENTS ON THE PROPOSED CLASSIFICATION IN AT LEAST TWO SEPARATE MEETINGS OPEN TO THE PUBLIC.

~~(B)~~ **(C)** A PRIVATE ENTITY MAY NOT OPERATE OR OCCUPY A BUILDING OR, STRUCTURE, OR OTHER REAL PROPERTY AS ~~AN IMMIGRATION~~ A DETENTION FACILITY WITHOUT A USE AND OCCUPANCY AUTHORIZATION OR CHANGE IN USE AND OCCUPANCY APPROVAL CONSISTENT WITH THIS SECTION.

~~(C)~~ **(D)** FOR PURPOSES OF THIS SECTION, A BUILDING OR, STRUCTURE, OR OTHER REAL PROPERTY SHALL BE CONSIDERED PROPOSED FOR USE AS ~~AN IMMIGRATION~~ A DETENTION FACILITY, REGARDLESS OF HOW THE USE IS DESCRIBED IN AN APPLICATION OR PERMIT REQUEST, IF:

~~(1)~~ **(1)** ~~INDIVIDUALS ARE INTENDED TO BE HELD BY A PRIVATE ENTITY FOR ANY STAGE OF PROCESSING FOR A FEDERAL IMMIGRATION VIOLATION;~~

~~(2)~~ **(2)** INDIVIDUALS ARE INTENDED TO BE HELD IN INVOLUNTARY CUSTODY AND WILL NOT BE FREE TO LEAVE; OR

~~(2)~~ ~~(3)~~ **(2)** THE DESIGN, CONSTRUCTION, OR IMPROVEMENTS INCLUDE FEATURES CONSISTENT WITH SECURE OR INVOLUNTARY CONFINEMENT, INCLUDING:

(I) PERIMETER SECURITY MEASURES DESIGNED TO PREVENT OCCUPANTS FROM LEAVING;

(II) CONTROLLED ACCESS POINTS; OR

(III) LOCKED HOLDING AREAS.

~~(D)~~ **(E)** **(1)** THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THIS SECTION.

(2) THE COURT MAY ISSUE TEMPORARY, PRELIMINARY, OR PERMANENT INJUNCTIVE RELIEF TO PREVENT AN ACT THAT WOULD CONSTITUTE A VIOLATION OF THIS SECTION.

~~(E)~~ **(F)** A PRIVATE ENTITY THAT OPERATES OR ATTEMPTS TO OPERATE ~~AN IMMIGRATION~~ A DETENTION FACILITY IN VIOLATION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH DAY THE VIOLATION CONTINUES.

~~(F)~~ (G) THE REMEDIES PROVIDED UNDER THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDY AVAILABLE UNDER STATE OR LOCAL LAW.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applied retroactively to any agreement between the State or a unit of local government and a private entity entered into before the effective date of this Act for the use of any building or structure, structure, or other real property if that building or structure, structure, or other real property is intended to be used as an immigration detention facility, regardless of any permits issued or investment made by the private entity toward construction or renovation of the building or, structure, or other real property.~~

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 2 of this Act is contingent on any provision of § 1-103 of the Correctional Services Article, as enacted by Section 1 of this Act, being rendered unenforceable by a State or federal court as to any party in any litigation challenging the validity of § 1-103 of the Correctional Services Article.

(b) As soon as practicable after the contingency described in subsection (a) of this section occurring, but no later than 5 days after, the Office of the Attorney General shall promptly notify the Department of Legislative Services.

(c) If notice of the contingency described in subsection (a) of this section is received by the Department of Legislative Services on or before December 31, 2029, Section 2 of this Act shall take effect on the date the notice is received by the Department of Legislative Services in accordance with subsection (b) of this section.

(d) If notice of the receipt of the contingency described in subsection (a) of this section is not received by the Department of Legislative Services on or before December 31, 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 28, 2026.