

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 245

(Senator Smith, *et al.*)

Judicial Proceedings

Judiciary

Public Safety - Immigration Enforcement Agreements - Prohibition

This emergency 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.” Immediately upon enactment of the bill, 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.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances.

Local Effect: The bill is not anticipated to materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: “Immigration enforcement agreement” means a contract, an agreement, an intergovernmental service agreement, or a memorandum of understanding (MOU) with the federal government that authorizes 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 to enforce civil immigration law. “Immigration enforcement agreement” includes an agreement made in accordance with (1) 8 U.S.C. § 1103; (2) 8 U.S.C. § 1357; or (3) any other federal law.

Current Law: While immigration is controlled by federal law, the U.S. Immigration, Customs, and Enforcement Division (ICE) and Department of Homeland Security (DHS) 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.

287(g) Agreements and Immigration Detainers

Section 287(g) of the Immigration and Nationality Act (codified as 8 U.S.C. § 1357(g)) authorizes the Attorney General of the United States to enter into agreements, commonly referred to as "287(g) agreements," with state and local governments authorizing state or local personnel "to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States." A 287(g) agreement is not required for a local jurisdiction to cooperate with federal immigration authorities; however, federal law does require that each agreement provide that participating personnel have adequate training regarding immigration law. There are currently three distinct models of 287(g) agreements. The Jail Enforcement Model allows for correctional officers to be trained to screen individuals entering a correctional facility for citizenship or immigration status, to notify DHS of individuals suspected of being in the country without lawful status, and to execute detainers and administrative warrants issued by DHS. The Warrant Service Officer Model is similar to the Jail Enforcement Model, but more limited in scope. Under a Warrant Service Officer Model, correctional officers are trained only to screen for and execute detainers and administrative warrants issued by DHS. Finally, under the Task Force Model, state and local law enforcement officers are trained to investigate the immigration status of individuals and enforce federal immigration law during routine policing in the field. An immigration detainer is a document issued by DHS advising a law enforcement agency that DHS believes the agency has custody of an individual who is deportable. The detainer requests that the agency

maintain custody of the individual for up to 48 hours beyond the time when the individual would otherwise be released, and notify DHS as early as practicable before the individual is released. Under current DHS policy, each detainer must be accompanied by an administrative warrant alleging that the individual is deportable. Immigration detainers and administrative warrants are issued by DHS and are not reviewed by a court.

According to DHS, the following jurisdictions in Maryland have [active 287\(g\) agreements](#):

- Allegany County – Warrant Service Officer Model
- Carroll County – Warrant Service Officer Model
- Cecil County – Jail Enforcement Model
- Frederick County – Jail Enforcement Model
- Garrett County – Warrant Service Officer Model
- Harford County – Jail Enforcement Model
- St. Mary’s County – Warrant Service Officer Model
- Washington County – Warrant Service Officer Model

Guidance for Interacting or Partnering with Federal Law Enforcement Agencies

In October 2025, the Office of the Attorney General of Maryland issued a [guidance memorandum](#) for State and local law enforcement agencies that addresses the application of State law when interacting or partnering with federal law enforcement agencies. The guidance describes requirements and prohibitions for police officers in the State when working with federal agents.

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 MOU 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.

Additional Information

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

Designated Cross File: HB 444 (Delegate Williams, *et al.*) - Judiciary.

Information Source(s): Carroll, Garrett, Harford, and St. Mary's counties; Town of Bel Air; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2026
me/hlb Third Reader - February 8, 2026
Revised - Amendment(s) - February 8, 2026

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