

## **Senate Judicial Proceedings Committee**

### **SUPPORT SB901 – State and Local Government – Participation in Federal Immigration Enforcement**

#### **Testimony of Nicholas Katz, CASA de Maryland**

**February 26, 2020**

Good Afternoon Mr. Chairman and members of the Committee:

My name is Nicholas Katz and I am the Senior Manager of Legal Services for CASA de Maryland (“CASA”). CASA is the largest membership-based immigrant rights organization in the mid-Atlantic region, with more than 90,000 members in Maryland. Thank you for this opportunity to testify today in support of SB901.

Fundamentally, SB901 simply takes immigration and citizenship status out of the equation when you are interacting with state and local government. Its strong prohibition on inquiring about such status, together with its mandate that such inquiries do not factor into decisions about access to State resources, unless required by law, and its explicit rejection of Maryland’s participation in any discriminatory registry, together form a powerful barrier between the State and an out-of-control federal immigration enforcement regime.

Importantly, this bill does nothing to impact the ability of Maryland to prosecute immigrants who have committed crimes. Rather, it simply takes immigration status out of the equation, putting everyone, regardless of immigration status, on an equal playing field. Immigrants who commit crimes will still be detained and prosecuted for the offenses, and face the same criminal penalties as anyone else. But they will not have to fear that Maryland will facilitate their transfer to immigration agents, placing them into a broken and dangerous *civil* system, over which Maryland has no control, that perversely has far greater consequences for their families than the criminal justice system.

This bill also does nothing to inhibit state and local law enforcement from collaborating with immigration enforcement agents on criminal matters. Investigations into things like human trafficking or drug trafficking are unrelated to the civil immigration enforcement system and as such are not governed by this legislation. The goal of SB901 is not to protect criminals. In fact, it is exactly the opposite. It is designed to encourage immigrants to feel safe accessing the criminal justice system, to report crimes without fear of retaliation based on their immigration status, to not turn the other way when they see a cop patrolling their street or a squad car driving down the road. Studies have shown

that jurisdictions that enact policies to separate themselves from the civil immigration enforcement system are safer and more prosperous.<sup>1</sup>

CASA's strong support for SB901 stems from the experiences of our members, several of whom are bravely sharing their stories in support of this crucial piece of legislation. Each year thousands of community members come through CASA's doors, seeking assistance with legal issues, access to benefits, and for many other services. Over the last two years, the desperate need for these services has only risen, as the federal government has taken punitive – and often illegal – actions against the immigrant community. With continued hateful rhetoric coming from the highest levels of our government, immigrants in Maryland have become increasingly skeptical of engaging with government at any level. Stories like you'll hear from some of our members today, where State police unlawfully detained a man for helping his family trim a tree, or where a victim in a car accident suddenly faces permanent separation from her family, only exacerbate these feelings of unease.

That is why several of Maryland's largest localities, including Montgomery County, Prince George's County, Baltimore County, Baltimore City and a host of localities, including the city of Annapolis where we now sit, have taken bold action to protect their most vulnerable community members. But those actions are not enough. Only you can put in place the comprehensive protections necessary to ensure that Maryland is no longer complicit in the operation of a federal deportation machine that is out of control and ripping our communities apart.

SB901 is a huge, positive step in that direction. By generally prohibiting State employees, including law enforcement agents, from inquiring about an individual's citizenship or immigration status, this bill sends a powerful message to immigrant Marylanders that we value them as full members of our community. As you are no doubt aware, nearly one million Marylanders are foreign born, representing more than 15% of our state's population. Immigrant residents of Maryland help drive our state's economy, as we are home to more than 176,000 immigrant businesses and 67,000 immigrant entrepreneurs.<sup>2</sup> Maryland's immigrants pay more than \$12 billion in taxes each year.<sup>3</sup>

Almost all of CASA's more than 100,000 members have ties to another country, and many live in mixed status families, where some members have lawful immigration status in the United States and others may not. As we seek to protect our members, and their communities, from the rogue and often unlawful immigration policies of the current

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<sup>1</sup>Wong, Tom K., *The Effects of Sanctuary Policies on Crime and the Economy*, Center for American Progress, January 26, 2017, available at: <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy/>

<sup>2</sup>Baltimore Sun Editorial Board, *Maryland's Economy Depends on Immigrants*, October 10, 2019, available at: <https://www.baltimoresun.com/opinion/editorial/bs-ed-1013-immigrants-maryland-20191010-s66dcyzrb5ec5fxbnsmkkaif3a-story.html>

<sup>3</sup>New American Economy, *Immigrants and the Economy in Maryland*, available at: <https://www.newamericaneconomy.org/locations/maryland/>

federal administration, it is absolutely crucial that Marylanders have faith that interacting with local and state government officials will not be a pipeline to deportation.

In addition to prohibiting the initial inquiry into immigration or citizenship status, SB901 goes further to protect immigrant Marylanders, by prohibiting jurisdictions from entering in agreements like the Intergovernmental Services Agreements (“IGSA”s) that transform County jails into immigration detention centers. On a weekly basis, CASA is called on to respond to ICE raids, where our members are snatched up by immigration agents and whisked off to detention centers in Frederick, Howard and Worcester Counties. Our experience shows us that more ICE beds equals more people in detention. It is crucial that we do all that we can to stop the inhumane practice of imprisoning people who are facing civil immigration violations.

The story of one of CASA’s most powerful and brave leaders illustrates how this detention regime hurts good people, undermines the fabrics of families and communities and leads to results that pervert justice. Roxana Orellana Santos was detained by ICE on January 8, after a routine ICE check-in. Despite the fact that she had multiple pending applications for immigration relief, and is currently litigating a federal civil rights case against the Frederick County Sheriff’s Office, it was only after weeks of tireless advocacy and pressure that ICE finally released Roxana. Roxana was the victim of racial profiling by the Frederick County Sheriff’s Office more than a decade ago and continues to fight to stay in this country.

Sadly, hers is not an isolated story. Just days after Roxana was detained, another CASA member experienced an emergency on the highway when her car caught fire. After seeking help from the police, she was identified as having an old deportation order and transferred to ICE. Another CASA member came to our Tuesday intakes and informed us that after she had been in a car accident, local police had facilitated her transfer to ICE and she is now fighting imminent deportation.

Deplorable conditions, lack of access to medical care, and general mismanagement have led to dozens of deaths in immigration detention over the last several years, including the deaths of seven children.<sup>4</sup> There is no justification for Maryland facilitating the transfer of its residents to such a dangerous and punitive system, where individuals accused only of *civil* violation are subject to deplorable conditions and where their very lives are at risk. Although Maryland can’t force the federal government to end immigration detention, it can send a clear message that our state will no longer be complicit in this violation of our residents’ basic human rights.

Crucially, SB901 also calls on the Attorney General to work with key stakeholders to develop guidance on enacting policies that protect immigrants seeking to access sensitive locations, like schools, hospitals and courthouses. Although these locations are supposed to be generally shielded from ICE raids, we routinely hear from our members and allies

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<sup>4</sup>Morales Rocketto, Jess, *Opinion: Seven Children Have Died in Immigration Custody. Remember Their Names.*, BuzzFeed, September 30, 2019, available at: <https://www.buzzfeednews.com/article/jessmoralesrocketto/remember-their-names>

about parents being picked up dropping their United States citizen children off at school, or attending court. In nearby Fairfax, Virginia,<sup>5</sup> we saw ICE even pick up an individual leaving a hypothermia shelter run by a church.<sup>5</sup> Such unconstrained tactics reveal the inherent lack of compassion in the current enforcement regime and demand a strong response from state and local governments to do whatever possible to protect their immigrant residents.

On the educational front, if parents are afraid to drop their kids off at school, or even send them to school in the first place, because they are afraid ICE will be waiting in the parking lot, then this undermines our state's educational mission and disrupts the school environment for everyone. At a time when Maryland is engaging in a generational investment in our childrens' futures through effectuating the recommendation of the Kirwan Commission, we cannot allow that laudable goal to be undermined by failing to protect those students and their families from a broken civil immigration enforcement system.

ICE enforcement actions in these sensitive locations also pose a public health risk. If parents or their children are unable to access medical facilities out of fear. If Marylanders don't feel safe accessing treatment in a timely manner there is increased risk that more serious conditions arise, or that infections are spread to other individuals, making communities less healthy and safe. At a time when public awareness of infectious disease is heightened due to fears of the spread of COVID19, we must do all we can to guarantee that all Marylanders, regardless of immigration status, feel safe accessing care.

Another example of why SB901 is necessary can be seen in the Trump administration's recent promulgation of a proposal to dramatically change what is known as the "public charge" rule, which despite significant litigation against it went into effect this week. This long-standing principle of federal immigration law has historically been applied to prevent immigrants from gaining lawful permanent resident status when they would likely become dependent upon the government as their main source of support. The Trump administration has proposed expanding the rule to prevent anyone who has used – or is likely to use - a broad category of benefits from being eligible to get lawful permanent residence in the United States. This is a blatant attack on the communities that comprise CASA's base – low-income, primarily immigrant communities, where families sometimes need to rely on some level of government-funded support to make ends meet or ensure that their children have healthy and nutritious food and access to medical care. These changes have already been implemented at U.S. consulates abroad and have led to a more than 300% increase in visa denials based on public charge grounds. In Maryland it is estimated that as many as 385,000 state residents, including 136,000 children, could be negatively impacted by this rule change.

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<sup>5</sup>Carey, Julie, *ICE Agents Arrest Man Leaving Fairfax County Church Shelter*, NBC4, February 15, 2017, available at: <https://www.nbcwashington.com/news/local/ice-agents-arrest-men-leaving-alexandria-church-shelter/36084/>

CASA, together with partners from across the state and country, has engaged in a wide-ranging public education campaign to dispel myths about this proposed change and to argue against its implementation. But we cannot reach everyone, and in the end may not be able to stop this misguided policy. What we can, and must, do is ensure that Marylanders can access the benefits their tax dollars pay for without fear of being denied those benefits because of their immigration status. SB901 would help ensure that our immigrant communities feel safe going to the hospital, or seeking other state-funded services that they are eligible for.

CASA's Health and Human Services Department aids thousands of community members each year navigate the complex HHS system. While applying for Health and Human Services many times inquiring about immigration status for the purpose of assessing eligibility is necessary, but serious issues arise when these inquiries are misapplied. This commonly happens when mixed-status families are attempting to apply for services solely on behalf of those that are eligible, especially for their U.S.-born minor children. One cannot submit an application on behalf of a minor child without having an adult as the primary applicant. The system makes it overly cumbersome for mixed status families to opt-out of applying for the benefit for the primary applicant and solely applying on behalf of minor children that are eligible for the public benefit. The system asks several questions about the primary applicant's immigration status, despite them only applying for benefits for the eligible minor child. The system makes these questions required fields to be able to complete the application. These hurdles to apply for vital public benefits for eligible minors, especially in the context of the current political climate, forces some families to forgo critical services for the wellbeing of their minor children.

As the example above illustrate, since President Trump took office in 2017, his administration has engaged in a systemic attack on immigrant communities, seeking to sow fear among families and deport as many undocumented members of our communities as possible. CASA has fought back against these assaults on all fronts, including through community organizing and mobilization, engaging in a robust program of Know Your Rights presentations, and through legal actions in federal court. In many of these efforts, we have acted in concert with the State of Maryland. Governor Hogan has come out against some of President Trump's more controversial policies and Attorney General Frosh has joined with Attorneys General from across the country in suing to prevent the administration's unconstitutional actions from going into effect.

As we seek to protect our members, and their communities, from the rogue and often unlawful immigration policies of the current federal administration, it is absolutely crucial that Marylanders have faith that interacting with local and state government officials will not be a pipeline to deportation. That is why SB901 is such a crucial piece of legislation. By prohibiting government agents from inquiring about the immigration or citizenship status of an individual, and by banning the use of threats of adverse immigration consequences against individuals for the purpose of coercing information from them, SB901 represents a commitment by the state to protect its residents and ensure they have access to the services they need.

Of course, there are still areas where SB901 could be improved. We recommend that the bill be amended to eliminate the provisions allowing law enforcement to collaborate with ICE when someone has been convicted of a crime of violence, as defined in § 14-101 of the Criminal Law Article. This carve-out unnecessarily links Maryland's criminal justice system with the federal *civil* immigration enforcement system. As outlined above, linking these two systems actually undermines the criminal justice system because witnesses and victims are afraid to report crimes or show up to court. There is a mechanism available under the law to deal with individuals who are charged with and convicted of crimes. A Marylander should not be treated differently simply because of their immigration status. If ICE wishes to pursue the removal of an individual convicted of a crime, there is nothing that prohibits them from doing so, but the State of Maryland should not aid in their efforts. Such assistance undermines the community trust that is at the heart of SB901 and serves to keep families separated and communities living in fear.

CASA supports SB901 and urges a favorable report from the committee.