



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

(301) 952-3700  
County Council

## POSITION STATEMENT

**HB 388**  
Delegate Peña-Melnyk  
Judiciary Committee

Criminal Procedure - Civil Immigration Enforcement -  
Restrictions

### POSITION:

### SUPPORT

**HB 388** – Criminal Procedure – Civil Immigration Enforcement - Restrictions – FOR the purpose of prohibiting law enforcement agents from (1) inquiring about an individual's immigration status, citizenship status, or place of birth during a stop, search, or an arrest; or (2) transferring an individual to federal immigration authorities unless required by federal law. The bill also prohibits a law enforcement agent, without a judicial warrant, from taking specified actions pursuant to a request by federal immigration authorities made solely for immigration enforcement purposes. These prohibited actions include (1) transferring an individual to federal immigration authorities; (2) detaining an individual; (3) notifying federal immigration authorities of an individual's location, address, or release date; or (4) otherwise using law enforcement resources to further civil immigration enforcement.

While immigration is controlled by federal law, the Department of Homeland Security (DHS) and the U.S. Immigration, Customs, and Enforcement Division (ICE) have initiated numerous programs that involve state and local law enforcement agencies as allies and additional resources. For example, DHS's Priority Enforcement Program (PEP) was established in 2014 to enable DHS to work with state and local law enforcement to take custody of individuals who pose a danger to public safety before those individuals are released. Under the PEP program, after an individual was arrested and booked for a criminal violation, state and local law enforcement officers would send data to ICE so that ICE could determine whether the individual was a priority for removal, consistent with the DHS enforcement priorities. Under PEP, ICE would seek the transfer of a removable individual when that individual had been convicted of a specified offense, had intentionally participated in an organized criminal gang to further the illegal activities of the gang, or posed a danger to national security. Another initiative, authorized under Section 287(g) of the Immigration and Naturalization Act, allows the Secretary of Homeland Security to enter into written agreements to delegate limited immigration enforcement authority to state and local law enforcement officers. In Maryland, 287(g) programs have been established in three jurisdictions – Cecil, Frederick, and Harford counties.

Despite the President's increased focus on undocumented immigrants, federal law still does not mandate that state and local law enforcement agencies become involved in immigration efforts. The Office of the Attorney General of Maryland reissued a letter of advice in December 2018 pertaining to 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 person named in the detainer for up to 48 hours past the date that the individual is otherwise eligible for release. The letter noted that relevant federal regulations

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specify that the detainer is a request that a state or local agency advise DHS, prior to the detainee's release, in order for DHS to arrange to assume custody in situations in which gaining immediate physical custody is impracticable or impossible. The letter advised that state and local jurisdictions may exercise discretion when determining how to respond to individual immigration detainees.

The Prince George's County Council has long supported our undocumented population and do not believe that our local law enforcement officials should enforce federal immigration law. The Council firmly believes that the policies being proffered by the President with respect to our immigration laws are flawed. Thankfully, Maryland's Attorney General has provided advice to the Council that our law enforcement officers are not required to participate in these initiatives. This bill simply codifies the Council's position in state law.

For the foregoing reasons, the Prince George's County Council **SUPPORTS HB 388** and respectfully requests your favorable consideration of this legislation.

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Prepared by: Carrington & Associates, LLC  
On behalf of the Prince George's County Council