



State of Maryland
Department of State Police
Government Affairs Section
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POSITION ON PROPOSED LEGISLATION

DATE: March 3, 2021

BILL NUMBER: House Bill 304 **POSITION:** Oppose

BILL TITLE: State and Local Government – Participation in Federal Immigration Enforcement

REVIEW AND ANALYSIS:

This legislation seeks to prohibit a police officer from inquiring about the immigration status, citizenship status, or place of birth during a stop, search or arrest conducted in the normal performance of regular police functions. The legislation also limits a law enforcement agency from contacting federal immigration authorities except in certain circumstances and prohibits the use of law enforcement facilities by federal immigration authorities except under a certain circumstance.

The Immigration and Customs Enforcement (ICE) conducts a number of criminal investigations including gangs, identity theft, human trafficking and drugs, just to name a few. Immigration violations are not their primary focus. As part of these investigations local and state law enforcement may allow the use of resources for these criminal investigation purposes. House Bill 304 prohibits the use of the secure side of the law enforcement agency building, except to pick up a person convicted of a crime of violence who is or may be subject to civil immigration enforcement, and prohibits access to or use of any facility, information, or equipment owned or controlled by law enforcement for a purpose related to civil immigration enforcement. If local and state law enforcement are investigating another MS-13 related crime, the investigation may end up with a civil immigration issue in addition to other serious crimes.

Upon a criminal arrest, a law enforcement officer is required to ask for identifying information including place of birth and country of citizenship. For example, the F.B.I. requires place of birth and country of citizenship to be identified when fingerprint cards are submitted. This is important for determining the true identity of the individual being processed. Citizenship or immigration status is never a concern for a law enforcement officer during a criminal arrest or routine traffic stop. But if the person is arrested other rights are to be available to the arrestee.

More importantly, every citizen of a foreign country has the right for the consulate of her natural citizenship to be notified if they are detained by law enforcement. However, if law enforcement is not permitted to ask questions regarding the individual's country of citizenship and the person does not know they have legal backing from their home country, the consul cannot provide the person with the assistance they may be afforded.

The Maryland State Police does not enforce immigration laws. However, there are any number of reasons why a police officer may ask for information about a person such as their name and date of birth. To further assist in identifying a person an officer may ask about a place of birth. This is all designed to help further identify the correct person for a license or other valid public safety reason.

For these reasons, the Maryland State Police urges the Committee to give House bill 304 an unfavorable report.