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SB828

Protecting Sensitive Locations Act

Senate Judicial Proceedings Committee

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The Maryland Access to Justice Commission (A2JC) is an independent entity that unites leaders to drive reforms and innovations to make the civil justice system accessible, equitable and fair for all Marylanders. A2JC is composed of prominent leaders from different segments of the legal community in Maryland – including the deans of the two law schools, the attorney general, law firm partners, heads of the legal services providers and funders, corporate counsel, academics, legislators, the state bar and judiciary. A2JC is a proud partner of the Maryland State Bar Association (MSBA).

A2JC supports SB828 and requests a favorable report. The bill simply requires the Maryland Office of the Attorney General to promulgate guidelines consistent with federal and state law that schools, hospitals and courthouses could use to develop their own policies to limit ICE enforcement on their premises.

This bill is needed on an emergency basis because of changes at the federal level.

Rescission of Federal Guidelines on Sensitive Locations Requires States to Act

A new executive order issued by the White House on January 20, 2025, rescinded the 2021 guidelines that limited Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) actions near sensitive locations. These guidelines, which were revised during the Biden administration, prohibited enforcement actions in places such as schools, places of worship, courthouses, and healthcare facilities, recognizing the chilling effect such actions have on immigrant access to justice, safety, and essential services.

The rescission of these protections, coupled with new directives from the Department of Homeland Security (DHS) aimed at expanding enforcement authority, has sparked significant alarm in Maryland, where advocates fear that the rollback will discourage immigrants from accessing critical services and engaging with the legal system.

The 2021 guidelines, detailed in a memorandum issued by then-Secretary of Homeland Security Alejandro Mayorkas, emphasized the importance of safeguarding public trust and ensuring that immigrants could seek medical care, attend court hearings, or access other vital services without fear of arrest or deportation. By targeting protected areas, the guidelines sought to prevent the erosion of trust between immigrant communities and public institutions.

Without the federal government guidance, ICE now has free reign to arrest people in schools, hospitals and courthouses, among other places, which will instill fear among all immigrants and erode trust and services.

ICE Arrests in Courthouses Impedes the Rule of Law and Access to Justice

The issue of ICE arrests in state courts is an access to justice issue.

A separate 2021 memo, entitled *Civil Immigration Enforcement Actions in or near Courthouses*, provided additional guidance related to ICE activity in and around courthouses.

As a core principle, it stated the following:

The courthouse is a place where the law is interpreted, applied, and justice is to be done. As law enforcement officers and public servants, we have a special responsibility to ensure that access to the courthouse - and therefore access to justice, safety for crime victims, and equal protection under the law - is preserved. Executing civil immigration enforcement actions in or near a courthouse may chill individuals' access to courthouses and, as a result, impair the fair administration of justice.

A2JC has studied the issue of ICE enforcement in state courts and supports curtailing ICE presence and arrests in and around courthouses. A2JC conducted a survey in 2018 to study the scale and scope of ICE arrests in state courts, finding that enforcement in courts was:

1. impeding the ability of all Marylanders to access equal justice under law;
2. undermining the ability of the courts to administer justice fairly and efficiently; and
3. impacting public trust in the justice system and the rule of law.

In 2019, a detailed report by the Maryland Access to Justice Commission highlighted the chilling effects of ICE enforcement actions in courthouses. Between January 2017 and October 2018 alone, over 70 ICE arrests were reported in or near Maryland courts, with actual numbers likely much higher. These arrests occurred in courtrooms, hallways, and parking lots, often in public view, undermining the perception of courts as places of safety and justice.

The survey also demonstrated the ICE court arrests caused substantial collateral impact to Marylanders and the justice system as a whole. **Fear of going to court and interacting with the justice system was pervasive, highlighted by the finding that people were more fearful of going to court than interacting with law enforcement.**

A2JC's findings showed that the fear of encountering ICE at courthouses caused individuals to forgo pursuing legal remedies in a wide range of cases. Notably, hundreds of domestic violence and family law cases went unfiled because individuals feared deportation. For instance, 472 instances were reported where survivors of domestic violence or sexual assault did not seek protection orders due to ICE activity near courts. This erosion of trust in the justice system has wide-ranging consequences, not just for immigrants but for public safety and community well-being.

The report also found that ICE enforcement actions in courthouses created additional challenges for the administration of justice. Witnesses avoided testifying, opposing attorneys threatened to call ICE as a tactic, and detained individuals missed court appearances, resulting in bench warrants. These practices erode the very foundation of a fair and accessible legal system.

ICE Arrests in State Courts are Harmful and There is a Need for Guidance and Guidelines to Prevent Arrests

ICE arrests in courts are having a chilling effect and are freezing out many Marylanders from their opportunity to access justice. They are impeding the administration of justice and negatively affecting the public's perception of courts as a destination for justice. Our courts are one of the core foundations of our democracy and when people opt out because of fear of ICE, it hurts the rule of law and the promise of justice for all Marylanders. For this reason, there needs to be guidance on how state courts can prevent the harmful practice of ICE arrests in state courts.

For the reasons stated, the Maryland Access to Justice Commission requests the Senate Judicial Proceedings Committee to issue a FAVORABLE report on SB828. For more information, please contact Reena K. Shah, Executive Director of the Maryland Access to Justice Commission, at reena@msba.org.