Testimony for the House Judiciary Committee

HB 1006: Immigration Enforcement - Sensitive Locations - Guidelines and Policies (Protecting Sensitive Locations Act)

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FAVORABLE

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The ACLU of Maryland supports HB 1006, which seeks to require that the Maryland Attorney General, in consultation with appropriate stakeholders, develop guidelines to assist private entities and government officials operating sensitive locations to develop policies that would limit federal immigrant enforcement activities on their premises. The bill does not require any entity or official to create guidelines or restrict immigration enforcement at sensitive locations.

HB 1006 identifies "sensitive locations" as places where people and families access necessary and deeply personal services such as public schools, daycare, medical and mental healthcare facilities, courthouses, places of worship, social services, and other places Maryland's Attorney General may designate. In light of new federal immigration enforcement initiatives, it is critical that Maryland pass this measure so that state and local government officials and private sector providers can develop protective policies – within their own authority and the limits of federal and state law – to ensure people and families may access services without the threat of ICE arrests.

Immigration enforcement at sensitive locations is a waste of resources, and communities are safer when everyone has access to necessary care and services. Access to education, freedom to worship, medical appointments, and help getting food are examples of services that meet personal wellness needs and promote public safety. Allowing federal immigration enforcement unwarranted access to these places will stoke fear in everyone who uses these spaces – even those with no immigration concerns. Worse still, people with immigration concerns or who are part of mixed status families may avoid prayer, therapy, food pantries, health treatments, or defer other needs to avoid the risk of enforcement. For all these communities, wellness will suffer and these sensitive locations become less safe. While the impact will be more brutal for people, access to sensitive locations is

not an effective tool or strategy toward immigration enforcement. We should not be wasting taxpayer dollars on state and local law enforcement staking out our schools, healthcare centers, and other social services. Our communities are safer when everyone can access necessary care and help.

In many communities, especially in isolated and underserved areas, schools serve as a core hub where children learn and socialize with their friends, and where families can access a myriad of supports and community activities. Schools are places where people should feel welcome and safe, and where the well-being of children is paramount. Parents should not fear taking their children to school, and children should be able to focus on learning without the looming threat of immigration police. Since the White House lifted restrictions constraining immigration enforcement access to schools, many children and families in Maryland are terrified and anxious. Some parents are choosing to keep their children home. This kind of hostile environment creates fear and negatively impacts all children in the school.

Further, in *Plyler v. Doe,* the Supreme Court ruled that all children, regardless of their immigration status, have the right to attend public schools.[1] Denying students an education violates the Equal Protection Clause of the 14th Amendment. HB 1006 will create model guidance that school systems and officials may adopt to ensure they protect the constitutional rights of their students from violation by federal immigration authorities.

Like schools, healthcare providers, such as hospitals, provide an essential service to everyone. We believe healthcare is a basic human right and that providers have an obligation to ensure that people feel welcome and safe in facilities throughout our state. Allowing ICE to conduct their activities in these facilities may deter people from seeking out the treatment they need. The outcome could be serious or even fatal for those with life threatening or terminal illnesses. Further, if people are fearful about seeking care, untreated communicable illnesses can pose a serious health threat to people and our communities throughout Maryland. Keeping ICE from operating in healthcare facilities is in the best interest for all Marylanders.

For courthouses, there is a longstanding common law tradition against civil arrests at courthouses, dating back to 18th Century England, which was extended not just to parties and witnesses in a case, but to all people "necessarily attending" the

1 Plyler v. Doe, 457 U.S. 202 (1982).

courts on business, including coming to and returning from the courthouse.[2] The Supreme Court has explicitly held up the tradition as well.[3]

The Supreme Court has also upheld the right to access court as a constitutional right rooted in the Fifth Amendment.[4] The Court went further to explain the administration of justice benefits when people are not afraid to attend court proceedings.[5] The threat of civil arrests, therefore, interferes with the right to access court, because without necessary parties in attendance, administration of justice is impossible. Please note that the constitutional right to access court applies to noncitizens as well.[6]

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Sensitive locations must remain safe and accessible to all Marylanders, regardless of immigration status, to ensure we receive the full rights and protections the law affords us, and that our justice system does not further split into separate classes for the powerful and powerless in our state.

The ACLU believes it is the responsibility of the state to ensure both public and private entities operating sensitive locations do not get entangled with federal immigration enforcement, as their obligation is to serve the greater public. To that end, HB 1006 is a step in the right direction and we ask for a favorable report on this bill.

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[2] William Blackstone, *Commentaries on the Laws of England 289* (1769)
[3] *See Lamb v. Schmitt*, 283 U.S. 222, 225 (1932) ("witnesses, suitors, and their attorneys, while in attendance in connection with the conduct of one suit are immune from service of process in another.")
[4] *See e.g. United States v. Kras*, 409 U.S. 434, 440 (1973).
[5] *Lamb v. Schmitt*, 283 U.S. 222, 225 (1932) ("As commonly stated and applied, [the privilege] proceeds upon the ground that the due administration of justice requires that a court shall not permit interference with the progress of a cause pending before it, by the service of process in other suits, which would prevent, or the fear of which might tend to discourage, the voluntary attendance of those whose presence is necessary or convenient to the judicial administration in the pending litigation.")
[6] *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).