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March 5, 2025

TO: The Honorable Luke Clippinger  
Chair, Judiciary Committee

FROM: Adam Spangler  
Legislative Aide, Legislative Affairs, Office of the Attorney General

RE: House Bill 1188 – Public Safety - Immigration Enforcement - Cooperation-  
**Oppose**

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The Office of the Attorney General (OAG) writes to request an unfavorable report on **House Bill 1188** - Public Safety - Immigration Enforcement - Cooperation. **House Bill 1188** would repeal and replace § 5-104 of the Criminal Procedure Article and would: (1) require law enforcement agencies, law enforcement agents, and local detention facilities that take custody of an individual to run a search on the individual in the National Crime Information Center (“NCIC”), make a certain notice to federal immigration authorities, and cooperate with federal immigration authorities in regards to certain individuals; and (2) prohibit the State, a unit of local government, a county sheriff, or an agency of the State or a unit of local government from adopting, implementing, or enforcing certain policies.

Section 5-104 of the Criminal Procedure Article underscores that law enforcement agencies are broadly prohibited from inquiring about an individual’s “citizenship, immigration status, or place of birth during a stop, a search, or an arrest” while engaging in the performance of “regular police functions.”<sup>1</sup> Similarly, § 5-104 prohibits law enforcement agents from detaining, or extending the detention of, an individual for the purposes of “investigating the individual’s citizenship or immigration status, or based on the suspicion that the individual has committed a civil immigration violation.”<sup>2</sup> Finally, the law prohibits State law enforcement

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<sup>1</sup> Md. Code, Criminal Procedure § 5-104

<sup>2</sup> *Id.*

officers from transferring an individual to federal immigration authorities unless specifically required to do so by federal law.

There are two key exceptions to § 5-104's prohibitions. First, "[n]othing in this subsection shall prevent a law enforcement agent from inquiring about any information that is material to a criminal investigation."<sup>3</sup> This means that if an individual's immigration status is directly relevant to a criminal investigation, such as during a human trafficking investigation involving trafficking individuals across international borders, law enforcement officials may make limited inquiries into the immigration status of the individuals involved in the investigation. Second, if a person's immigration or citizenship status is directly linked to legal protections afforded to that individual under State or federal law, a law enforcement agent may notify an individual that the legal protection exists and allow the individual the opportunity to self-disclose their immigration and/or citizenship status to avail themselves of the legal protection or to satisfy a legal requirement. An example of this that may arise for local law enforcement agents would be the U-Visa process, which permits certain immigrants without lawful status who were victims of a crime to become eligible for a visa to remain in the United States if they cooperate with police investigations into the crime perpetrated against them.<sup>4</sup>

**House Bill 1188** threatens the trust that exists between immigrant communities and law enforcement. Many individuals may be reluctant to report crimes or cooperate with police if they fear being reported to immigration authorities. This could lead to unreported crimes and a less safe environment for everyone, as marginalized communities would be less likely to reach out for help. Moreover, the requirement for law enforcement to run searches in national databases and to detain individuals for potential immigration violations could lead to racial profiling and discrimination. This not only undermines the principle of justice but also could tarnish the reputation of our local law enforcement agencies.

Finally, **House Bill 1188** places an undue burden on State and local resources. Our law enforcement should focus on community safety, addressing crime, and building relationships, rather than acting as an extension of federal immigration enforcement. The increased workload could detract from their primary responsibilities and potentially compromise the safety and security of all residents.

For the foregoing reasons the Office of the Attorney General requests an unfavorable report on **House Bill 1188**.

cc: The Honorable Delegate April Miller  
Members of the House Judiciary Committee

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<sup>3</sup> *Id.*

<sup>4</sup> See <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status> to learn more about U-Visas.