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POSITION ON PROPOSED LEGISLATION

BILL: SB791 Correctional Services and Public Safety – Immigration Enforcement – Prohibitions (Community Trust Act)

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 23, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on SB791, the Community Trust Act (“CTA”).

This legislation promotes trust in our institutions by creating a clear statewide policy that distinguishes between state and local law enforcement and ICE, and ensuring that our officials remain squarely focused on their mission of protecting public safety in Maryland through the enforcement of state and local law.

The CTA Closes a Critical Loophole Permitting Police to Work on Behalf of ICE

While Maryland Criminal Procedure 5-104 prohibits police officers on the street from detaining someone or prolonging their detention based on suspicion of a civil immigration violation, and from asking questions about the person’s citizenship or immigration status, this law did not address police officers’ ability to share information with ICE where they can do so without prolonging the person’s detention. This loophole means that while an officer cannot ask during a traffic stop “are you a US citizen?” or “where were you born?”, if he runs a driver’s license and sees one of the hundreds of thousands of administrative immigration ‘warrants’ that were uploaded to NCIC in 2025, Maryland law still permits him to call ICE and provide that person’s information to ICE, even if she was never arrested or even suspected of a crime. After a routine traffic stop, that information could be more than enough for ICE to make an arrest: her name, location and direction of travel, current home address, the vehicle’s registration number, or even the location to which she mentioned she was traveling.

This is not a mere hypothetical. The Baltimore County Police Department field manual provides that where NCIC showed an ICE-related hit, department members must distinguish between civil and criminal warrants, and in the case of a civil administrative warrant

“Contact the ICE Law Enforcement Support Center (LESC) after the encounter has ended and provide the subject’s information. EXCEPTION: If a subject is arrested in reference to a violation of Maryland law or federal criminal law, notification will be done upon approval by the shift/unit commander after arriving at the precinct, and a printed copy of the NCIC response will be placed with the subject’s arrest documents.”

This policy clearly contemplates that not only will local police on the street be providing information to ICE voluntarily, based solely on a civil administrative ‘warrant,’ but that they will do so *even about subjects who are never arrested*. While Baltimore County’s recently-signed Trust Act will require their police department to update this particular policy, other departments around the state will be free to require this type of voluntary ICE cooperation by police on the street.

The CTA Protects the 4th Amendment by Standardizing Local Policies that Result in 4th Amendment Violations

Around the State, local detention facilities have taken a range of different approaches to cooperation with ICE, many of which fail to respect the basic constitutional principle that any arrest must be supported by probable cause, and must either be upon a warrant or must fall within an exception the warrant requirement. While guidance from the Attorney General and a plethora of caselaw has repeatedly made clear that prolonging detention based on an administrative ICE warrant or administrative ICE detainer is illegal, the policies and practices of numerous local detention centers around the state nonetheless allow for or result in prolonged detention based on these unreviewed administrative requests by ICE.¹ In former 287(g) jurisdictions, we must anticipate that both force of habit and, in some cases, ideological opposition to the ban will contribute to additional violations. The CTA’s clear ban on transferring an individual to ICE in the absence of a *judicial* warrant does not break new legal ground, but rather will clarify the law, reducing confusion for

¹ Anne Arundel County Department of Detention Facilities policy, for instance, provides that “Determination will be made on a case-by-case basis by the Superintendent or the Correctional Facility Administrator to determine how long ICE has to assume custody of subjects with ICE detainees.” This information was provided in response to an MPIA request by the Office of the Public Defender.

correctional officers, and prompting facilities statewide to update their policies to ensure that they comply with the law.

The CTA Upholds Due Process by Ending Local Participation in the Deportation of Marylanders Who Have Not Been Convicted of Any Crime

From January to October of 2025, 78% of the people booked into ICE detention as a result of an ICE detainer in a non-287g county had no conviction at all.² Of those with convictions, a significant number had a most serious conviction that was a traffic offense. This reflects the reality that informal collaboration with ICE outside of 287g targets the exact same population of least-culpable individuals that 287g agreements target: those being released from a local jail. Those individuals are generally being released either pretrial, or after their case has been resolved without a conviction (meaning they have been acquitted, the charges have been dismissed, or the case has been placed on the stet docket), or they have been convicted and served a short local sentence for a less serious offense. Like 287(g) agreements, these informal forms of collaboration do not protect public safety; they serve only to undermine due process by ensuring that a police officer's decision to arrest—regardless of the offense or whether the charge is ever proven—is often the deciding factor in whether a person is placed into the deportation pipeline with the help of local officials.

When community members disappear into ICE custody after an arrest, either before their day in court, or after being found not guilty, or even after serving their time for a one-time mistake, it fuels the valid perception that even a minor or mistaken run-in with police can turn into a deportation. This perception, and the panic it creates, is corrosive to public safety and counterproductive to effective law enforcement.

Passing the CTA Will Help Rebuild Community Trust

A community that fears engagement with law enforcement is vulnerable, and widespread fear hinders the effective enforcement of Maryland criminal law. For the same reasons that it was important to protect courthouses to the extent possible from becoming associated with the risk of an ICE arrest in last year's Values Act, and to ban 287(g) agreements earlier this session, it is important to ensure that local law enforcement is fully and clearly separated from ICE in the eyes of Maryland residents. This separation is impossible to maintain—both in perception and in reality—

² The FOIA data is available from the Deportation Data Project at <https://github.com/deportationdata/ice/raw/refs/heads/main/data/detainers-latest.xlsx>.

when a local jail communicates extensively with ICE, even when particular police agencies operating within that jurisdiction have taken pains to distance themselves from immigration enforcement and build community trust. Demanding that our law enforcement agencies abandon ICE partnerships and prioritize enforcing Maryland laws, on the other hand, preserves public trust and ultimately protects public safety.

For all of these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB791.

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