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POSITION ON PROPOSED LEGISLATION

BILL: HB0444 Public Safety - Immigration Enforcement Agreements - Prohibition

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: January 23, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on HB444, to end 287(g) agreements in Maryland.

Since this bill was considered last year, 287(g) agreements have more than doubled from three Maryland counties to eight, covering a substantial portion of the state. These agreements have continued to undermine due process and target the least culpable individuals who have contact with the criminal legal system. Like a woman with decades living in the United States with no criminal history, who suffered a mental health crisis that led to her arrest on minor misdemeanor charges of trespassing in a 287(g) jurisdiction. She was deemed incompetent to stand trial, held in jail waiting for a hospital bed until she had served the maximum sentence for the minor offenses alleged and could be held no longer under state law, and then held for well over 48 hours before ICE picked her up.¹ Though an immigration attorney was ready to help her, in ICE custody she was denied the ability to communicate with that lawyer for weeks, despite persistent attempts. She was ultimately deported. Another longtime Maryland resident inadvertently missed a court date for driving uninsured in a *non*-287(g) jurisdiction, and a bench warrant was issued. A few days later, he was arrested on that warrant in a 287(g) jurisdiction, released immediately on his own recognizance by a commissioner due to the minor nature of the charge, but held and transferred to ICE custody.

¹ Though 287(g) agreements contemplate 48h of detention, many jurisdictions interpret this to exclude weekends and holidays, resulting in substantially longer stays.

287(g) Agreements Are Contrary to Maryland Values

287(g) agreements undermine due process and make innocence irrelevant, by *requiring* local law enforcement officials to screen, interrogate, detain without judicial authorization, and transfer into ICE custody for deportation, any arrested person suspected to be deportable under civil immigration law.² These agreements contain no exception for someone arrested based on mistaken identity, even if that person's case has been dismissed or they are found not guilty of the crime. There is no exception for a person accused only of a minor traffic offense, or for the victim of a false citizen complaint, or for an unhoused person accused of trespass while seeking shelter from the elements, or any of the other innumerable scenarios in which a person might be arrested despite being innocent or posing no real risk to public safety.

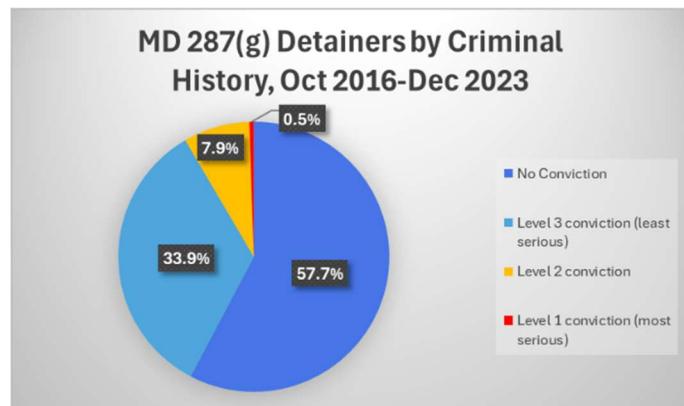
287(g) is an extremely ineffective tool for targeting people with serious convictions; but it is a powerful tool for funneling innocent people and those with very low level offenses into the deportation pipeline. This is because MD's 287(g) agreements only assist ICE in arresting people being released from a local detention center. People being released from a local detention centers are *not* the people who have been convicted of serious crimes that might constitute a risk to public safety—most of those people are released from the Division of Corrections after serving prison sentences, and therefore will never be impacted by a local 287(g) agreement. Far from being risks to public safety, the people being released from local detention centers—and therefore the people who are being arrested by ICE via 287(g) cooperation in MD—have generally either:

- 1) been found not guilty;
- 2) had their charges dismissed or placed on the stet docket;
- 3) been released by a judicial officer while awaiting their day in court, based on the judge or commissioner's determination that the release conditions can reasonably ensure their appearance in court and public safety³; or
- 4) completed a short local sentence for a less serious offense.

² The group of people that ICE deems 'deportable' has expanded rapidly in the past year, and is not limited to those who entered the United States without permission. More than 1.5 million people who had been living in the United States with authorization, many of whom applied for and received permission to enter in advance, have lost protections over the last year. See Figueroa, Ariana, "[Trump cancelled temporary legal status for more than 1.5 million immigrants in 2025](#)," WLRN Public Media, Dec. 29, 2025.

³ See Md. Rule 4-216.

The data bears this out, both in Maryland and nationwide. From October of 2016-December of 2023, only *four* of the 771 287(g) detainees in Maryland were for defendants with the most serious “Level 1” convictions.⁴ The majority, 445, were for people with no conviction at all, and the overwhelming majority—706 out of 771, or 92%—were for people with either no conviction or only the least serious “Level 3” conviction, which includes traffic offenses and other minor misdemeanors.⁵



See n. 4 for data source

Nationally, over the same seven year period, less than two percent of detainees issued under 287(g) programs were for people convicted of “Level 1” offenses, and 82% were issued for those with either no criminal conviction or only a minor “Level 3” conviction. Updated data is not available, because, while ICE still uses a ranking system of ‘level 1’ through ‘level 3,’ they now assign these levels based not on the person’s actual criminal convictions, but on a much more nebulous assessment that anticipates convictions that have not actually happened.⁶ However, there is no reason to think that the criminal history of the noncitizens booked into and released from local jails—the population impacted by 287(g) agreements in MD—would have changed substantially in recent years.

Allowing ICE to use our criminal legal system as a dragnet and force multiplier does not reduce ICE enforcement in the community; it simply frees up ICE’s resources to terrorize communities in other ways. Under a Jail Enforcement Model 287(g) agreement, ICE outsources to local officials the tasks of identifying potential noncitizens, investigating the subject’s immigration status, preparing the administrative detainer and warrant paperwork, and perhaps generating a

⁴ This is drawn from the Transactional Records Access Clearinghouse’s Immigration and Customs Enforcement Detainers Tool, available at <https://tracreports.org/phptools/immigration/newdetain/>. Additional information on the source of the data is available here:

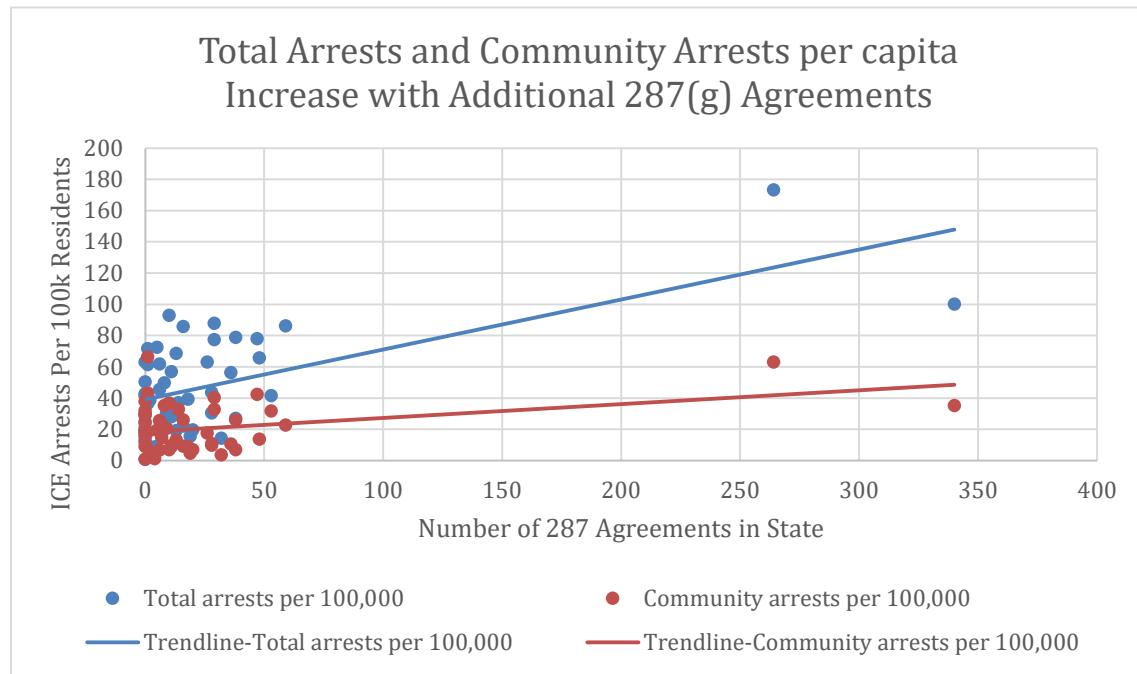
https://tracreports.org/phptools/immigration/newdetain/about_data.html. These numbers were obtained by filtering by State: Maryland; Apprehension Method: 287(g) Program; and Seriousness Level of MSCC (Most Serious Criminal Conviction).

⁵ *Id.*

⁶ See Blair, Graeme, David Hausman, and Phil Neff, “[Immigration and Customs Enforcement Individual-Level Data: An Introduction](#),” December 2025 (defining Detainer Prep Threat Level field).

Notice to Appear in removal proceedings. Under both the JEM and Warrant Service Officer model agreements, local jails do the administrative work of serving ICE warrants, and provide two (or more) days of housing, food, medical care, and staff supervision. While serving a single warrant is not a lengthy process, in the aggregate it is a real time burden, as evidenced by the many Maryland jurisdictions that have a considerable backlog in serving local criminal warrants on already-incarcerated people, due to staffing shortages. Holding ICE detainees at local expense, while much of the administrative work that accompanies an ICE arrest is completed by local officials, frees up both time and space in ICE's Baltimore holding room that ICE can use to make additional arrests.

The numbers from around the country support the idea that ICE cooperation via 287(g) agreements simply frees up ICE resources to increase other types of enforcement, as **an increase in the number of 287(g) agreements in a state is correlated not only with more ICE arrests per capita overall, but also with more ICE arrests in the community** (meaning, arrests of individuals who were not already in custody).⁷



See n. 6 for data source.

⁷ This chart compares the number of 287(g) agreements a state has (using ice.gov data as analyzed [here](#)), with the number of (1) community ICE arrests and (2) total ICE arrests in the state from 1/20/25-10/15/2025 (according to FOIA'd records available [here](#), as analyzed [here](#)) per 100k residents (using [U.S. Census Bureau 2024 population estimates](#)). The trendlines illustrate that having more 287(g) agreements is correlated not only with higher arrests overall, but also with higher community arrests.

287(g) agreements hand the reins of local law enforcement over to ICE and the federal government, replacing Maryland's priorities with national politics. There is no question that ICE's current marching orders are to step up its use of all available tools, including 287(g), to detain and remove as many people as possible, even those who are innocent and/or pose no risk to public safety. While 287(g) programs have always given ICE the ability to detain the innocent and the lowest level offenders, ICE has in the past exercised at least some degree of forbearance, sometimes declining to arrest those who were not removal priorities. This has likely limited the damage done by 287(g) programs. However, the guidance instructing ICE to prioritize removal of those deemed a risk to public safety, national security, or border security, was repealed by Executive Order on January 20, 2025,⁸ and recent events provide ample evidence ICE's indiscriminate arrests of those with little or no criminal history, as well as those who are US citizens or otherwise lawfully present in the United States.⁹

287(g) agreements undermine state and local efforts to reassure terrified communities that they can trust law enforcement and the legal system more broadly. 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, it is important to ensure that local law enforcement is clearly separated from ICE in the eyes of Maryland residents. This separation is impossible to maintain—both in perception and in reality—when a local jail has a 287(g) agreement, 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 287(g) agreements and instead 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 HB444.

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⁸ See Exec. Order No. 14159, 90 Fed. Reg. 8443 (January 20, 2025), "Protecting the American People from Invasion."

⁹ According to the Cato Institute, 73% of ICE arrestees in FY25 had no conviction at all; only 5% had been convicted of a violent crime. See Bier, David, "[5% of People Detained by ICE Have Violent Convictions; 73% No Convictions](#)," November 24, 2025.