**Testimony for the House Judiciary Committee**

**February 25, 2026**

**HB 1575 – Correctional Services and Public Safety – Immigration Enforcement – Prohibitions (Community Trust Act)**


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**FAVORABLE**

The ACLU of Maryland supports HB 1575, which seeks to limit state and local collaboration with federal immigration enforcement (ICE) efforts. The bill would ensure that state and local practices do not run afoul of constitutional protections to which all Marylanders are entitled and would provide critical safeguards, such as requiring correctional facilities to obtain a judicial warrant before detaining a person or extending a person's detention for the purpose of transferring them to ICE. It also prevents police and correctional officers from facilitating immigration arrests by directly sharing information with ICE about individuals they encounter. This bill is necessary to address sheriffs' blatant attempts to circumvent the recently enacted 287(g) prohibition through novel, untested arrangements with ICE that are beyond the public's eye.

## Detention based on ICE hold requests violates the Fourth Amendment.

Immigration hold requests ask state and local law enforcement authorities to detain a person past the date he or she should otherwise have been released from custody. As such, they constitute a new arrest and detention that must be justified under the Fourth Amendment.[1] In order to be so justified, they must either be based on a warrant supported by probable cause and issued by a neutral magistrate or meet the requirements for warrantless arrest. As several courts have found, they do neither.[2]

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[1] *See, e.g., Illinois v. Caballes,* 543 U.S. 405, 407-08 (2005); *Morales v. Chadbourne,* 793 F.3d 208, 215 (1st Cir. 2015) and see https://oag.maryland.gov/FederalActionsResponse/Documents/pdfs/Memorandum_Law%20Enforcement_OCT%2025.pdf

[2] *See, e.g., Miranda-Olivares v. Clackamas County*, 2014 WL 1414305 (D. Or. Apr. 11, 2014);

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First, it is unclear what evidentiary standard ICE uses when deciding to issue a detainer, and there is no procedure through which oath or affirmation supports a finding of probable cause.[3] Thus, ICE hold requests do not meet the basic Fourth Amendment requirements for a valid warrant.[4]

Second, persons detained on ICE hold requests are not brought before a neutral judge or magistrate within at most 48 hours of arrest but instead are only brought before an employee of the arresting federal agency. Thus, they do not meet the Fourth Amendment requirements for warrantless arrest, which clearly include presentment before a neutral magistrate within *at most* 48 hours of arrest.[5]

This lack of basic Fourth Amendment protection explains why ICE has mistakenly issued detainers for so many U.S. citizens and lawfully present individuals. Since ICE detainers are merely requests, state and local law enforcement agencies and detention facilities open themselves up to legal liability for making the decision to detain an individual—for any length of time—based solely on an ICE detainer request. Moreover, there is good reason not to trust ICE's detainer requests: ICE regularly issues detainers based on faulty information from unreliable databases. A federal court has described ICE's databases as, "Inaccurate, Incomplete, and Error-Filled." [6]

Thus, eliminating compliance with ICE hold requests, as this bill would do, is necessary to ensure that state and local detention centers are not violating the constitutional rights of persons in their custody, and reducing Maryland communities' exposure to costly lawsuits that drain our local taxpayer funding.

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*Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2013); *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015); *Jimenez-Moreno v. Napolitano,* F.Supp.3d, 2016 WL 5720465 (N.D.Ill. Sept. 30, 2016).

[3] *See* Form I-247, https://www.ice.gov/doclib/secure-communities/pdf/immigration-detainer- form.pdf (form issued by an ICE employee, requiring only the signature of an ICE employee, no oath or affirmation of probable cause, and no review by a neutral magistrate).

[4] *See Gerstein v. Pugh,* 420 U.S. 103, 116 n. 18, 117 (1975).

[5] *Id.; see also* Immigrant Legal Resource Center Memorandum (Attachment 1).

[6] Gonzalez v. Immigr. & Customs Enf't, 416 F. Supp. 3d 995, 1016 (C.D. Cal. 2019) (rev'd and vacated by 975 F.3d 788 (9th Cir. 2020) (issuing a permanent injunction limiting certain ICE offices from issuing detainers). Although the Ninth Circuit reversed the District Court's decision, it did not hold that the databases used by ICE to make probable cause determinations for its detainers are actually reliable. Instead, it provided a clear legal standard for determining database reliability and remanded the case to the District Court for additional fact finding in line with this standard. The case settles in November 2024, with its term taking effect in March 2025. *See* Class Action Settlement Agreement & Release, Gonzalez v. Immigr. & Customs Enf't, No. CV. 13-04416 AB (FFMx) (C.D. Cal. Nov. 25, 2024), https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2025-01/GonzalezDetainers-Class-Settlement-Agreement_Nov2024.pdf (hereafter "Gonzalez Settlement Agreement").

**This bill closes a loophole in current law that allows local law enforcement officers to share a person's information with ICE while in the field.**

While Maryland's Dignity Not Detention Act, which passed in 2021, prohibits officers from detaining or extending a person's detention based on suspicion of a civil immigration violation and bars officers from affirmatively questioning someone about their status—it does **not** prevent officers from communicating a person's information to ICE so long as doing so does not itself prolong the stop. In practice, this leaves a significant loophole. For example, during a routine traffic stop, if a warrant check reveals an ICE "warrant," the officer cannot extend the stop to wait for ICE. But nothing prevents one officer from writing the citation while another calls ICE, or from releasing the driver and then immediately notifying ICE with all the information needed for ICE to locate and arrest the person.

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**Except in very limited circumstances not covered by the provisions of this bill, state and local authorities are not required to share information with federal immigration agents.**

Restricting information-sharing between state and local law enforcement officials and immigration authorities is critically important to fostering a relationship of trust between our law enforcement and the members of our communities. Except in specific circumstances provided for in this proposed law, state and local law enforcement authorities are not prohibited from enacting such information-sharing restrictions, and public policy considerations suggest that they should do so. In this connection, two points should be emphasized:

> First, automatic information-sharing through fingerprint interoperability continues to occur and would not be restricted by this proposed law. When fingerprints are uploaded into the NCIC database, they will continue to automatically be forwarded to the Department of Homeland Security, which can still identify and apprehend persons it considers to be priorities for deportation. Nothing in this bill impedes that form of information-sharing.

The proposed law would simply limit additional information-sharing about non- public matters that is not prohibited by federal law. While federal law prohibits restrictions on communication about the

"immigration or citizenship status" of particular individuals, it does not prohibit limiting communications regarding release dates, custody status, or criminal case information for individuals in state or local custody.[7] Restricting such information-sharing is critical to ending the damaging pipeline from any contact with local law enforcement to immigration detention and deportation proceedings.

**Local jails have quietly become central to Trump's mass arrest and deportation agenda.**

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Informal, jail-based transfers (not formal 287g agreements) remain the primary pipeline sending people from Maryland custody into ICE custody. Nearly 1 in 3 (29%) of the more than 3,300 Marylanders arrested by ICE from January 1, through October 15, 2025,[8] and 82% of these transfers occurred outside of 287(g) agreements. Most people in local jails have not been convicted of any crime, and many are held only for low-level allegations like trespassing or disorderly conduct. Nationally, more than 80% of people in jail are legally presumed innocent, having only been accused, not proven guilty, and many ultimately are[9]

This means local jails are voluntarily holding and funneling innocent people into ICE's deportation pipeline. This practice not only undermines the presumption of innocence but also harms public safety by eroding trust and discouraging community members from engaging with local law enforcement.

**Maryland's best tool to curb overall ICE arrests of the innocent and to keep more families together are to end all forms of collusion with ICE.**

Passing the Community Trust Act is a critical next step after banning 287(g) agreements. We can learn from New Jersey's cautionary tale of banning formal 287(g) agreements while leaving in place informal collaboration. As a result of Sheriffs exploiting this loophole, ICE arrests in New Jersey have simultaneously spiked in both jails and in the

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[7] *See* Piers et al. Memorandum to the U.S. Conference of Mayors and the Major Cities Chiefs Association (Attachment 2).

[8] *Based on ICE data retrieved through FOIA and analyzed by Prison Policy Initiative: "New ICE arrest data show the power of state and local governments to curtail mass deportations." https://www.prisonpolicy.org/blog/2025/12/11/ice-jails-update/#:~:text=They%20are%20heavily%20reliant%20on,into%20the%20 hands%20of%20ICE.*

[9] *Ibid.*

community at a significantly higher rate than in states like Illinois and Oregon that have ended all voluntary collaboration.[10]

Additionally, HB 1575 is necessary to address sheriffs' already evident intent to circumvent the legislature's recently enacted prohibition on 287(g) —in dangerous ways that will expose municipalities to lawsuits. For example, on Feb. 21, 2026, Fox News reported that on the same day the 287(g) ban was signed, Carroll County Sheriff Jim DeWees signed "Special Order 26-001" to establish a policy that, in his words "doesn't look much different than what the 287(g) agreement that we had [was]."[11] DeWees said his new policy was to contact ICE if anyone in custody had a detainer, giving ICE 48 hours to "come up here and serve that detainer." If this is truly the policy, individuals in Carroll County ordered released on bail would be held for another 48 hours on the basis of potentially inaccurate and invalid detainers — creating the risk of lawsuits for Fourth Amendment violations.

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Sheriff Chuck Jenkins of Fredrick County likewise told Fox News that he plans to "provide arrestee [sic] lists to ICE so they can review and check it." That would mean that Fredrick County's notorious practice of racial profiling and arresting individuals for minor offenses for the actual purpose of feeding them to ICE would continue unabated, despite the clear will of the legislature.

Many of the dangers to our communities that spurred legislators to enact the 287(g) ban will continue, if these sheriffs' attempts at circumvention go unchecked.

For these reasons, the ACLU of Maryland urges a favorable report on HB 1575.

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[10] Sawyer, W. (December 10, 2025). New ICE arrest data show the power of state and local governments to curtail mass deportations. Prison Policy Initiative. https://www.prisonpolicy.org/blog/2025/12/11/ice-jails-update/

[11] https://foxbaltimore.com/news/local/carroll-county-sheriff-says-ice-cooperation-continues-despite-ban-immigration-maryland