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SB 854/HB 1262, "An Act Concerning Public Safety—Law Enforcement Officers—Restrictions" continues the longstanding tradition of state laws protecting rights when the federal government falters. The Supreme Court of Iowa in *Clark v. Board of School Directors*, 24 Iowa 266 (1868) declared that segregated schools violated the state constitution long before the Supreme Court in *Brown v. Board of Education*, 347 U.S. 483 (1954) reached the same conclusion as a matter of federal constitutional law. The Supreme Court of California in *Perez v. Sharp*, 32 Cal. 2d 711 (1948) held that consenting adults had a right to marry the person of their choice at a time when the Supreme Court of the United States decision in *Pace v. Alabama*, 106 U.S. 583 (1883) maintaining that states under the Fourteenth Amendment could ban interracial marriage was still good constitutional law. SB 854/HB 1262 forbids the use of racial profiling in Maryland when the federal government enforces Maryland laws or operates jointly with Maryland officers at a time when the Supreme Court in *Noem v. Vasquez Perdomo*, 602 U.S. ___ (2025) has indicated that federal officers enforcing federal laws may stop a detain persons in part or in whole by their race or ethnicity.

The Constitution of the United States welcomes state court decisions and state laws that protect rights that the Supreme Court of the United States is presently not protecting under the Constitution of the United States. As Justice William Brennan famously pointed out many years ago, Supreme Court decisions interpreting the Constitution of the United States merely establish a floor under which states may not go. William J. Brennan, Jr., "State Constitutions and the Protection of Individual Rights," 90 *Harvard Law Review* 489 (1977). Maryland may not violate what the Supreme Court has declared to be federal constitutional rights but the state legislature is free to protect rights the Supreme Court has declared are not guaranteed by the Constitution of the United States. Witness the substantial number of states that provide far more limits on eminent domain than the Supreme Court in *Kelo v. City of New London*, 545 U.S. 469 (2005) declared were constitutionally mandated. See Ilya Somin, "The Limits of Backlash: Assessing the Political Response to *Kelo*," 93 *Minnesota Law Review* 2100 (2009).

Both prongs of SB854/HB1262 pass constitutional muster. The proposed law mandates that federal officers must obey Maryland laws on racial profiling when enforcing Maryland laws. The federal government has no power to enforce state laws. That is a state prerogative under the Tenth Amendment. Federal agents can enforce state laws only with state permission. The state may condition that permission on federal agents obeying state law enforcement rules when enforcing state laws. SB854/HB1262 mandates that joint federal/state operations must obey Maryland laws on racial profiling. The Supreme Court in *Printz v. United States*, 512 U.S. 898 (1997) held that the Tenth Amendment prohibits the federal government from commandeering state police forces without state permission to implement federal law. That permission, *Printz* and other cases agree, can come with conditions. SB854/HB1262 is Maryland's declaration that state police forces may be used to enforce federal law in Maryland only when joint operations respect Maryland law on racial profiling.

SB854/HB1262 present no Supremacy Clause problems. The Supremacy Clause prohibits states from interfering with federal efforts to implement federal law. Nothing in SB854/HB1262 restricts constitutional federal efforts to implement federal laws in Maryland. The measure merely declares that when federal agents seek to implement Maryland laws in Maryland or ask for the assistance of Maryland officials to implement federal laws in Maryland, they must adopt Maryland's rules on racial profiling.