



MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MARYLAND-NATIONAL CAPITAL PARK POLICE

MONTGOMERY COUNTY DIVISION
12751 LAYHILL ROAD
SILVER SPRING, MARYLAND 20906

PRINCE GEORGE'S COUNTY DIVISION
8100 CORPORATE DRIVE
HYATTSVILLE, MARYLAND 20785



MEMORANDUM

DATE: January 26, 2021

TO: The Maryland-National Capital Park and Planning Commission

FROM: **Stanley Johnson, Division Chief** *Chief Stanley Johnson*
Prince George's County Division

Darryl McSwain, Division Chief *Darryl McSwain*
Montgomery County Division

RE: Support for Senate Bill 88 - State and Local Government - Participation in Federal Immigration Enforcement (Cross-filed as House Bill 304)

Recommendation

The Maryland-National Capital Park and Planning Commission ("Commission") should formally register its support for the enactment of Senate Bill 88 - State and Local Government - Participation in Federal Immigration Enforcement (commonly known as the "Trust Act").

Background

A number of legislators and stakeholders have requested that our agency register its formal support for this pending legislation. After consulting with our General Counsel, our respective Commission department heads, and our internal leadership, we agree with the policies embodied in the bill and that its passage would provide benefits that would be useful for our sworn personnel.

As some of the members may be aware, both Park Police divisions currently follow a comparable approach to interacting with the federal Immigration and Customs Enforcement ("ICE") that is consistent with the equivalent policies followed by both County police departments. Without going into a lot of detail, our officers strictly follow judicial immigration warrants, but they handle administrative warrants that are issued without judicial oversight differently. That distinction – between judicial and administrative warrants – is at the heart of how our county police partners operate. In fact, although we have been disrupted by the ongoing COVID-19 pandemic, the Park Police had previously worked with the General Counsel's office to flesh-out a uniform agency policy on this same topic. (See DRAFT attached.)

Our basic reason for supporting the legislation involves a desire to minimize the chance of community members suffering in silence as victims of crime, or in need of critical social services, due to a fear of contacting the police – because of worrying that Park Police will report their citizenship status to ICE. That fear has been palpable in our jurisdictions and becomes even more visible – Latinos not going to

restaurants, pulling their children out of public schools, etc. – after a reported local raid or threats by federal elected officials. In fact, over the past several years, Chief McSwain has participated in Spanish-language radio programs and spoken in person to many community groups to stress that the local police are not interested in their immigration status.

Even so, our efforts to educate the public is on-going and will remain an urgent need absent a strong/unambiguous law that extends to all public safety agencies within the State.

What the Bill Would Do

1. Grant immunity for state level prosecutions for failing to provide information to the Federal Government as it relates to the refusal to provide information to the Federal government or any other state agency for the use, creation, or maintenance of a registry for the purposes of discrimination.
2. Provide indemnification to those individuals that may be subject to suit for failure to provide such information.
3. Provides technical definitions for civil administrative warrants and judicially issued warrants as related to deportation matters.
4. Clearly states the intent of General Assembly to maintain trust in the exercise of governmental authority in delineating the parameters of state and local participation in ICE matters.
5. Prohibits LEOs from inquiring about citizenship, immigration status, or place of birth during a stop, search, arrest.
6. Prohibits the prolonged detention of a foreign national for any time longer than necessary to perform a valid law enforcement function unrelated to immigration concerns.
7. Mandates that the arrest or transport any individual for immigration matters is prohibited unless there is a valid, judicial warrant issued by a court of law (or other violation of the Criminal Law Article).
8. Does not restrict the use of Law Enforcement resources where permitted by existing statute (CP §5-104).
9. Prohibits the denial of benefits or opportunities to persons based on their immigration status; prohibits intimidation or threats against other persons on the basis of their immigration status.
10. Where immigration status is relevant to protections afforded by State or Federal laws (asylum), LEO may obtain information from the person regarding their immigration status.
11. Requires the acceptance of other government issued documents (in addition to driver's licenses) to establish one's identity.
12. Urges the governmental entity to notify foreign nationals of inquiries relating to civil immigration enforcement, and providing a copy of any written documents addressing the same.
13. Does not restrict governmental activities when required by other State or Federal laws.
14. Restricts the use of government funds to assist with the creation or maintenance of a registry relating to foreign nationals.

Memorandum re: Federal Immigration Enforcement

January 26, 2021

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Conclusion

For the reasons discussed above, we endorse the principles behind SB88. However, we recognize that the bill may be subject to amendments throughout the legislative process.

Attachment

cc: Adrian R. Gardner, General Counsel
 Michael Riley, Director, Montgomery County Department of Parks
 Bill Tyler, Director, Prince George's County Department of Parks and Recreation

SENATE BILL 88

E4
HB 1612/20 – HRU

(PRE-FILED)

1lr1269
CF HB 304

By: **Senator Smith**

Requested: October 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Government – Participation in Federal Immigration**
3 **Enforcement**

4 FOR the purpose of providing that a certain official is immune from criminal and civil
5 liability for refusing to provide information to the federal government or another
6 state that will be used for a certain purpose; authorizing the State to indemnify a
7 certain official for certain costs or a certain judgment; expressing the intent of the
8 General Assembly to maintain community trust in Maryland governmental
9 operations and law enforcement by clarifying the parameters of State and local
10 participation in federal immigration enforcement efforts; prohibiting a law
11 enforcement agent from taking certain actions at a certain time under certain
12 circumstances; prohibiting a State or local correctional agent or employee from
13 taking certain actions under certain circumstances, subject to certain exceptions;
14 prohibiting a unit of State government or local government, or an agent or employee
15 of a unit, from taking certain actions, subject to certain exceptions; authorizing a
16 unit of State government or local government, or an agent or employee of a unit, to
17 provide certain notice and a certain opportunity to a certain individual under certain
18 circumstances; providing that a certain document shall be accepted for a certain
19 purpose under certain circumstances, subject to a certain exception; requiring a unit
20 of State government or local government to provide certain notice to a certain
21 individual who is the subject of a certain request or inquiry made by federal
22 immigration authorities; providing that nothing in this Act shall prevent a certain
23 agent or employee from responding to a certain request or sending or receiving
24 certain information; prohibiting a certain officer or unit of State government from
25 spending certain funds for a certain purpose; prohibiting the State from reimbursing
26 certain expenditures; providing that the State is not obligated to appropriate money
27 to pay a certain expenditure; providing that a certain employee or officer who makes
28 a certain expenditure or receives certain funds is subject to certain disciplinary
29 action under certain provisions of law; requiring the Attorney General to develop
30 certain policies in consultation with certain stakeholders; authorizing all public

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



schools, hospitals, and courthouses to establish and publish certain policies; requiring all State agencies to review certain policies, identify certain changes, and make certain changes at a certain time for certain purposes; defining certain terms; making the provisions of this Act severable; and generally relating to State and local participation in federal immigration enforcement.

BY adding to

Article – Courts and Judicial Proceedings
Section 5–527
Annotated Code of Maryland
(2020 Replacement Volume)

BY adding to

Article – Criminal Procedure
Section 5–104
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – General Provisions
Section 9–101 through 9–104 to be under the new title “Title 9. Citizenship and Immigration Status”
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Finance and Procurement
Section 7–240
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

5–527.

(A) AN OFFICIAL OF STATE GOVERNMENT OR A LOCAL GOVERNMENT IS IMMUNE FROM CRIMINAL AND CIVIL LIABILITY FOR REFUSING TO PROVIDE INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE THAT WILL BE USED FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.

(B) THE STATE MAY INDEMNIFY AN OFFICIAL OF STATE GOVERNMENT OR A LOCAL GOVERNMENT FOR ANY COSTS ASSOCIATED WITH OR ANY JUDGMENT IN AN ACTION OR SUIT FILED BASED ON THE OFFICIAL'S REFUSAL TO PROVIDE INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE THAT WILL BE USED FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.

Article – Criminal Procedure

5–104.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CIVIL IMMIGRATION ENFORCEMENT” INCLUDES ALL EFFORTS TO INVESTIGATE, ENFORCE, OR ASSIST IN THE INVESTIGATION OR ENFORCEMENT OF FEDERAL CIVIL IMMIGRATION LAW.

(3) “CIVIL IMMIGRATION VIOLATION” MEANS A VIOLATION OF FEDERAL CIVIL IMMIGRATION LAW.

(4) “JUDICIAL WARRANT” MEANS A WARRANT BASED ON PROBABLE CAUSE AND ISSUED BY A STATE OR FEDERAL JUDGE OR A FEDERAL MAGISTRATE JUDGE THAT AUTHORIZES THE ARREST OR TAKING INTO CUSTODY OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE WARRANT.

(5) “LAW ENFORCEMENT AGENT” INCLUDES:

(I) A LAW ENFORCEMENT OFFICER, AS DEFINED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE;

(II) A CHIEF OF A LAW ENFORCEMENT AGENCY, AS DEFINED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE; AND

(III) AN AGENT OR EMPLOYEE OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY.

(6) “LOCAL CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1–101 OF THE CORRECTIONAL SERVICES ARTICLE.

(7) “STATE CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1–101 OF THE CORRECTIONAL SERVICES ARTICLE.

1 **(8) “STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE” MEANS**
2 **AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR LOCAL**
3 **CORRECTIONAL FACILITY.**

4 **(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MAINTAIN**
5 **COMMUNITY TRUST IN MARYLAND GOVERNMENTAL OPERATIONS AND LAW**
6 **ENFORCEMENT BY CLARIFYING THE PARAMETERS OF STATE AND LOCAL**
7 **PARTICIPATION IN FEDERAL IMMIGRATION ENFORCEMENT EFFORTS.**

8 **(C) A LAW ENFORCEMENT AGENT MAY NOT, DURING THE PERFORMANCE OF**
9 **REGULAR POLICE FUNCTIONS:**

10 **(1) INQUIRE ABOUT AN INDIVIDUAL’S CITIZENSHIP, IMMIGRATION**
11 **STATUS, OR PLACE OF BIRTH DURING A STOP, A SEARCH, OR AN ARREST;**

12 **(2) DETAIN, OR PROLONG THE DETENTION OF, AN INDIVIDUAL:**

13 **(I) FOR THE PURPOSE OF INVESTIGATING THE INDIVIDUAL’S**
14 **CITIZENSHIP OR IMMIGRATION STATUS; OR**

15 **(II) BASED ON THE SUSPICION THAT THE INDIVIDUAL HAS**
16 **COMMITTED A CIVIL IMMIGRATION VIOLATION; OR**

17 **(3) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION**
18 **AUTHORITIES UNLESS REQUIRED BY FEDERAL LAW.**

19 **(D) WITHOUT A JUDICIAL WARRANT, A LAW ENFORCEMENT AGENT MAY**
20 **NOT, PURSUANT TO A REQUEST BY FEDERAL IMMIGRATION AUTHORITIES MADE IN**
21 **RELATION TO CIVIL IMMIGRATION ENFORCEMENT:**

22 **(1) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION**
23 **AUTHORITIES FOR THE PURPOSE OF CIVIL IMMIGRATION ENFORCEMENT;**

24 **(2) DETAIN AN INDIVIDUAL FOR THE PURPOSE OF CIVIL**
25 **IMMIGRATION ENFORCEMENT; OR**

26 **(3) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF AN**
27 **INDIVIDUAL’S LOCATION, ADDRESS, OR ANY OTHER INFORMATION THAT MAY BE**
28 **USED TO AID FEDERAL IMMIGRATION AUTHORITIES FOR THE PURPOSE OF CIVIL**
29 **IMMIGRATION ENFORCEMENT.**

30 **(E) WITHOUT A JUDICIAL WARRANT, A STATE OR LOCAL CORRECTIONAL**
31 **AGENT OR EMPLOYEE MAY NOT DETAIN AN INDIVIDUAL:**

(1) BEYOND THE PERIOD PRESCRIBED BY APPLICABLE STATE OR LOCAL LAW; OR

(2) SOLELY FOR A PURPOSE RELATED TO CIVIL IMMIGRATION ENFORCEMENT.

(F) NOTHING IN THIS SECTION SHALL PREVENT A LAW ENFORCEMENT AGENT OR A STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE FROM:

(1) RESPONDING TO:

(I) A REQUEST FROM FEDERAL IMMIGRATION AUTHORITIES FOR INFORMATION ABOUT A SPECIFIC PERSON'S CRIMINAL RECORD WHEN REQUIRED BY STATE OR FEDERAL LAW; OR

(II) A LAWFUL SUBPOENA;

(2) SENDING TO, OR RECEIVING FROM, ANY LOCAL, STATE, OR FEDERAL AGENCY INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL WHEN REQUIRED BY STATE OR FEDERAL LAW; OR

(3) OTHERWISE COMPLYING WITH:

(I) A REQUIREMENT OF STATE OR FEDERAL LAW; OR

(II) A JUDICIAL WARRANT.

Article – General Provisions

TITLE 9. CITIZENSHIP AND IMMIGRATION STATUS.

9–101.

(A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) “CIVIL IMMIGRATION ENFORCEMENT” HAS THE MEANING STATED IN § 5–104 OF THE CRIMINAL PROCEDURE ARTICLE.

(3) “FAMILY MEMBER” MEANS A RELATIVE BY BLOOD, ADOPTION, OR MARRIAGE.

(4) “HOUSEHOLD MEMBER” MEANS A PERSON WHO LIVES WITH, OR IS

1 A REGULAR PRESENCE IN, A HOME OF ANOTHER.

2 (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION AND §
3 5-104(E)(2) OF THE CRIMINAL PROCEDURE ARTICLE, A UNIT OF STATE
4 GOVERNMENT OR LOCAL GOVERNMENT OR AN AGENT OR EMPLOYEE OF A UNIT OF
5 STATE OR LOCAL GOVERNMENT MAY NOT:

6 (1) COORDINATE WITH FEDERAL IMMIGRATION AUTHORITIES IN ANY
7 WAY RELATED TO CIVIL IMMIGRATION ENFORCEMENT;

8 (2) ALLOW FEDERAL IMMIGRATION AUTHORITIES TO ACCESS AN
9 AREA NOT ACCESSIBLE TO THE PUBLIC IN A BUILDING OWNED OR CONTROLLED BY
10 THE STATE OR A LOCAL GOVERNMENT;

11 (3) CONTACT FEDERAL IMMIGRATION AUTHORITIES REGARDING AN
12 INDIVIDUAL WHO MAY BE SUBJECT TO CIVIL IMMIGRATION ENFORCEMENT;

13 (4) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF AN
14 INDIVIDUAL'S RELEASE FROM A STATE CORRECTIONAL FACILITY OR LOCAL
15 CORRECTIONAL FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL
16 SERVICES ARTICLE;

17 (5) COMMUNICATE ANY INFORMATION ABOUT AN INDIVIDUAL WHO IS
18 OR MAY BE SUBJECT TO CIVIL IMMIGRATION ENFORCEMENT TO FEDERAL
19 IMMIGRATION AUTHORITIES;

20 (6) ASSIST IN THE INVESTIGATION OF THE CITIZENSHIP OR
21 IMMIGRATION STATUS OF AN INDIVIDUAL, UNLESS THE CITIZENSHIP OR
22 IMMIGRATION STATUS OF THE INDIVIDUAL IS MATERIAL TO A CRIMINAL
23 INVESTIGATION; OR

24 (7) PROVIDE FEDERAL IMMIGRATION AUTHORITIES WITH ACCESS TO
25 OR USE OF ANY FACILITY, INFORMATION, OR EQUIPMENT OWNED OR CONTROLLED
26 BY A UNIT OF STATE OR LOCAL GOVERNMENT FOR A PURPOSE RELATED TO CIVIL
27 IMMIGRATION ENFORCEMENT.

28 (C) NOTWITHSTANDING § 5-104(E)(2) OF THE CRIMINAL PROCEDURE
29 ARTICLE, A UNIT OF STATE GOVERNMENT OR A LOCAL GOVERNMENT OR AN AGENT
30 OR EMPLOYEE OF A UNIT MAY NOT:

31 (1) CONDITION THE PROVISION OF A BENEFIT, AN OPPORTUNITY, OR
32 A SERVICE ON THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL
33 UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW OR A COURT ORDER;

1 **(2) COERCE, INTIMIDATE, OR THREATEN ANY INDIVIDUAL BASED ON**
2 **THE ACTUAL OR PERCEIVED CITIZENSHIP OR IMMIGRATION STATUS OF THE**
3 **INDIVIDUAL OR:**

4 **(I) THE INDIVIDUAL'S FAMILY MEMBER;**

5 **(II) THE INDIVIDUAL'S HOUSEHOLD MEMBER;**

6 **(III) THE INDIVIDUAL'S LEGAL GUARDIAN; OR**

7 **(IV) ANOTHER INDIVIDUAL FOR WHOM THE INDIVIDUAL IS A**
8 **LEGAL GUARDIAN;**

9 **(3) REQUIRE AN INDIVIDUAL TO PROVE THE INDIVIDUAL'S**
10 **CITIZENSHIP OR IMMIGRATION STATUS;**

11 **(4) REQUIRE AN INDIVIDUAL TO COMPLETE ANY TYPE OF**
12 **REGISTRATION ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION,**
13 **IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN;**

14 **(5) INCLUDE QUESTIONS RELATING TO CITIZENSHIP OR**
15 **IMMIGRATION STATUS AS PART OF ANY ROUTINE QUESTIONING;**

16 **(6) REQUEST INFORMATION ABOUT OR INVESTIGATE, OR ASSIST IN**
17 **THE INVESTIGATION OF, THE CITIZENSHIP OR IMMIGRATION STATUS OF AN**
18 **INDIVIDUAL, UNLESS THE CITIZENSHIP OR IMMIGRATION STATUS OF THE**
19 **INDIVIDUAL IS MATERIAL TO A CRIMINAL INVESTIGATION; OR**

20 **(7) ENTER INTO AN INTERGOVERNMENTAL SERVICES AGREEMENT,**
21 **OR ANY OTHER AGREEMENT, WITH THE FEDERAL GOVERNMENT FOR ANY PURPOSE**
22 **RELATED TO CIVIL IMMIGRATION ENFORCEMENT.**

23 **(D) IF THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL IS**
24 **RELEVANT TO A PROTECTION ACCORDED TO THE INDIVIDUAL UNDER STATE OR**
25 **FEDERAL LAW, OR SUBJECT TO A REQUIREMENT IMPOSED BY INTERNATIONAL**
26 **TREATY, A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT, OR THE AGENT**
27 **OR EMPLOYEE OF A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT, MAY:**

28 **(1) NOTIFY THE INDIVIDUAL OF THE PROTECTION OR REQUIREMENT;**
29 **AND**

30 **(2) PROVIDE THE INDIVIDUAL AN OPPORTUNITY TO VOLUNTARILY**

1 DISCLOSE THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS FOR THE
2 PURPOSE OF RECEIVING THE PROTECTION OR COMPLYING WITH THE
3 REQUIREMENT.

4 **9-102.**

5 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PROVIDING
6 ANY OF THE FOLLOWING DOCUMENTS, IF VALID, SHALL BE ACCEPTED FOR THE
7 PURPOSE OF PROVING AN INDIVIDUAL'S IDENTITY IN THE SAME MANNER THAT A
8 VALID DRIVER'S LICENSE OR STATE-ISSUED IDENTIFICATION CARD IS ACCEPTED
9 FOR THE PURPOSE OF PROVING AN INDIVIDUAL'S IDENTITY, AND MAY NOT SUBJECT
10 AN INDIVIDUAL TO A HIGHER LEVEL OF SCRUTINY OR DIFFERENT TREATMENT:

11 (1) A DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED BY A
12 FOREIGN GOVERNMENT;

13 (2) A PASSPORT ISSUED BY A FOREIGN GOVERNMENT; AND

14 (3) A DOCUMENT ISSUED BY THE EMBASSY OR CONSULATE OF A
15 FOREIGN GOVERNMENT THAT IDENTIFIES THE INDIVIDUAL.

16 (B) THIS SECTION DOES NOT APPLY TO REQUIREMENTS FOR ESTABLISHING
17 IDENTITY ASSOCIATED WITH THE COMPLETION OF A UNITED STATES CITIZENSHIP
18 AND IMMIGRATION SERVICES I-9, EMPLOYMENT ELIGIBILITY VERIFICATION
19 FORM.

20 **9-103.**

21 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, TO THE EXTENT
22 PRACTICABLE, A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT SHALL
23 NOTIFY ANY INDIVIDUAL WHO IS THE SUBJECT OF A REQUEST OR INQUIRY MADE BY
24 FEDERAL IMMIGRATION AUTHORITIES RELATING TO CIVIL IMMIGRATION
25 ENFORCEMENT THAT THE UNIT HAS RECEIVED THE REQUEST OR INQUIRY WITHIN
26 48 HOURS AFTER RECEIVING THE REQUEST OR INQUIRY.

27 (B) IF A REQUEST OR INQUIRY DESCRIBED IN SUBSECTION (A) OF THIS
28 SECTION IS MADE IN WRITING, THE UNIT THAT RECEIVED THE REQUEST OR INQUIRY
29 SHALL PROVIDE THE INDIVIDUAL WHO IS THE SUBJECT OF THE REQUEST OR
30 INQUIRY WITH A COPY OF THE WRITTEN REQUEST OR INQUIRY WHEN PROVIDING
31 NOTICE TO THE INDIVIDUAL UNDER SUBSECTION (A) OF THIS SECTION.

32 **9-104.**

1 **NOTHING IN THIS TITLE SHALL PREVENT A UNIT OF STATE OR LOCAL**
2 **GOVERNMENT, OR AN AGENT OR EMPLOYEE OF A UNIT OF STATE OR LOCAL**
3 **GOVERNMENT, FROM:**

4 **(1) RESPONDING TO:**

5 **(I) A REQUEST FROM FEDERAL IMMIGRATION AUTHORITIES**
6 **FOR INFORMATION ABOUT A SPECIFIC INDIVIDUAL'S CRIMINAL RECORD WHEN**
7 **REQUIRED BY STATE OR FEDERAL LAW; OR**

8 **(II) A LAWFUL SUBPOENA;**

9 **(2) SENDING TO, OR RECEIVING FROM, ANY LOCAL, STATE, OR**
10 **FEDERAL AGENCY INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION**
11 **STATUS OF AN INDIVIDUAL WHEN REQUIRED BY STATE OR FEDERAL LAW; OR**

12 **(3) OTHERWISE COMPLYING WITH:**

13 **(I) A REQUIREMENT OF STATE OR FEDERAL LAW; OR**

14 **(II) A JUDICIAL WARRANT, AS DEFINED IN § 5-104 OF THE**
15 **CRIMINAL PROCEDURE ARTICLE.**

16 **Article – State Finance and Procurement**

17 **7-240.**

18 **(A) AN OFFICER OR UNIT OF STATE GOVERNMENT MAY NOT SPEND MONEY**
19 **FROM AN APPROPRIATION, AND A PERSON THAT RECEIVES STATE FUNDS MAY NOT**
20 **USE THE STATE FUNDS, TO:**

21 **(1) KNOWINGLY CREATE OR MAINTAIN A REGISTRY FOR THE**
22 **PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION,**
23 **RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR**
24 **ETHNIC ORIGIN; OR**

25 **(2) KNOWINGLY PROVIDE INFORMATION TO THE FEDERAL**
26 **GOVERNMENT OR ANOTHER STATE FOR THE CREATION OR MAINTENANCE OF A**
27 **REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE**
28 **BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS,**
29 **OR NATIONAL OR ETHNIC ORIGIN.**

30 **(B) (1) THE STATE MAY NOT REIMBURSE ANY EXPENDITURE TO THE**
31 **EXTENT THAT THE EXPENDITURE VIOLATES SUBSECTION (A) OF THIS SECTION.**

1 **(2) THE STATE IS NOT OBLIGATED TO APPROPRIATE MONEY TO PAY**
2 **AN EXPENDITURE THAT VIOLATES SUBSECTION (A) OF THIS SECTION.**

3 **(C) EACH EMPLOYEE OR OFFICER OF THE STATE GOVERNMENT WHO MAKES**
4 **AN EXPENDITURE OR RECEIVES STATE FUNDS THAT VIOLATE SUBSECTION (A) OF**
5 **THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION, INCLUDING TERMINATION,**
6 **UNDER THE APPLICABLE DISCIPLINARY AND GRIEVANCE PROCEDURES IN TITLES**
7 **11 AND 12 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Attorney General, in
9 consultation with the appropriate stakeholders, shall develop guidelines to assist public
10 schools, hospitals, and courthouses to draft policies that limit civil immigration
11 enforcement activities on their premises in order to ensure these facilities remain safe and
12 accessible to all, regardless of immigration status.

13 SECTION 3. AND BE IT FURTHER ENACTED, That public schools, hospitals, and
14 courthouses may establish and publish policies that limit immigration enforcement on their
15 premises to the fullest extent possible consistent with federal and State law based on the
16 guidelines developed by the Attorney General.

17 SECTION 4. AND BE IT FURTHER ENACTED, That, in order to ensure that
18 eligible individuals are not deterred from seeking services or engaging with State agencies,
19 all State agencies shall review their confidentiality policies and identify any changes
20 necessary to ensure that information collected from individuals is limited to that which is
21 necessary to perform agency duties, does not include inquiries into immigration status
22 unless required by federal law or necessary to make a determination of eligibility, and is
23 not used or disclosed for any other purpose. Any necessary changes to those policies shall
24 be made as expeditiously as possible, consistent with agency or department procedures.

25 SECTION 5. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
26 the application thereof to any person or circumstance is held invalid for any reason in a
27 court of competent jurisdiction, the invalidity does not affect other provisions or any other
28 application of this Act that can be given effect without the invalid provision or application,
29 and for this purpose the provisions of this Act are declared severable.

30 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2021.

HOUSE BILL 304

E4
SB 901/20 – JPR

(PRE-FILED)

1lr0767
CF SB 88

By: **Delegate W. Fisher**

Requested: September 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

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7 certain official for certain costs or a certain judgment; expressing the intent of the
8 General Assembly to maintain community trust in Maryland governmental
9 operations and law enforcement by clarifying the parameters of State and local
10 participation in federal immigration enforcement efforts; prohibiting a law
11 enforcement agent from taking certain actions at a certain time under certain
12 circumstances; prohibiting a State or local correctional agent or employee from
13 taking certain actions under certain circumstances, subject to certain exceptions;
14 prohibiting a unit of State government or local government, or an agent or employee
15 of a unit, from taking certain actions, subject to certain exceptions; authorizing a
16 unit of State government or local government, or an agent or employee of a unit, to
17 provide certain notice and a certain opportunity to a certain individual under certain
18 circumstances; providing that a certain document shall be accepted for a certain
19 purpose under certain circumstances, subject to a certain exception; requiring a unit
20 of State government or local government to provide certain notice to a certain
21 individual who is the subject of a certain request or inquiry made by federal
22 immigration authorities; providing that nothing in this Act shall prevent a certain
23 agent or employee from responding to a certain request or sending or receiving
24 certain information; prohibiting a certain officer or unit of State government from
25 spending certain funds for a certain purpose; prohibiting the State from reimbursing
26 certain expenditures; providing that the State is not obligated to appropriate money
27 to pay a certain expenditure; providing that a certain employee or officer who makes
28 a certain expenditure or receives certain funds is subject to certain disciplinary
29 action under certain provisions of law; requiring the Attorney General to develop
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BY adding to

Article – State Finance and Procurement
Section 7–240
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

5–527.

(A) AN OFFICIAL OF STATE GOVERNMENT OR OF A LOCAL GOVERNMENT IS IMMUNE FROM CRIMINAL AND CIVIL LIABILITY FOR REFUSING TO PROVIDE INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE THAT WILL BE USED FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.

(B) THE STATE MAY INDEMNIFY AN OFFICIAL OF STATE GOVERNMENT OR OF A LOCAL GOVERNMENT FOR ANY COSTS ASSOCIATED WITH OR ANY JUDGMENT IN AN ACTION OR SUIT FILED BASED ON THE OFFICIAL'S REFUSAL TO PROVIDE INFORMATION TO THE FEDERAL GOVERNMENT OR ANOTHER STATE THAT WILL BE USED FOR THE CREATION OR MAINTENANCE OF A REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN.

Article – Criminal Procedure

5–104.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CIVIL IMMIGRATION ENFORCEMENT” INCLUDES ALL EFFORTS TO INVESTIGATE, ENFORCE, OR ASSIST IN THE INVESTIGATION OR ENFORCEMENT OF FEDERAL CIVIL IMMIGRATION LAW.

(3) “CIVIL IMMIGRATION VIOLATION” MEANS A VIOLATION OF FEDERAL CIVIL IMMIGRATION LAW.

(4) “JUDICIAL WARRANT” MEANS A WARRANT BASED ON PROBABLE CAUSE AND ISSUED BY A STATE OR FEDERAL JUDGE OR A FEDERAL MAGISTRATE JUDGE THAT AUTHORIZES THE ARREST OR TAKING INTO CUSTODY OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE WARRANT.

(5) “LAW ENFORCEMENT AGENT” INCLUDES:

(I) A LAW ENFORCEMENT OFFICER, AS DEFINED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE;

(II) A CHIEF OF A LAW ENFORCEMENT AGENCY, AS DEFINED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE; AND

(III) AN AGENT OR EMPLOYEE OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY.

(6) “LOCAL CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1–101 OF THE CORRECTIONAL SERVICES ARTICLE.

(7) “STATE CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1–101 OF THE CORRECTIONAL SERVICES ARTICLE.

(8) "STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE" MEANS AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR LOCAL CORRECTIONAL FACILITY.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MAINTAIN COMMUNITY TRUST IN MARYLAND GOVERNMENTAL OPERATIONS AND LAW ENFORCEMENT BY CLARIFYING THE PARAMETERS OF STATE AND LOCAL PARTICIPATION IN FEDERAL IMMIGRATION ENFORCEMENT EFFORTS.

(C) A LAW ENFORCEMENT AGENT MAY NOT, DURING THE PERFORMANCE OF REGULAR POLICE FUNCTIONS:

(1) INQUIRE ABOUT AN INDIVIDUAL'S CITIZENSHIP, IMMIGRATION STATUS, OR PLACE OF BIRTH DURING A STOP, A SEARCH, OR AN ARREST;

(2) DETAIN, OR PROLONG THE DETENTION OF, AN INDIVIDUAL:

(I) FOR THE PURPOSE OF INVESTIGATING THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS; OR

(II) BASED ON THE SUSPICION THAT THE INDIVIDUAL HAS COMMITTED A CIVIL IMMIGRATION VIOLATION; OR

(3) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES UNLESS REQUIRED BY FEDERAL LAW.

(D) WITHOUT A JUDICIAL WARRANT, A LAW ENFORCEMENT AGENT MAY NOT, PURSUANT TO A REQUEST BY FEDERAL IMMIGRATION AUTHORITIES MADE IN RELATION TO CIVIL IMMIGRATION ENFORCEMENT:

(1) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES FOR THE PURPOSE OF CIVIL IMMIGRATION ENFORCEMENT;

(2) DETAIN AN INDIVIDUAL FOR THE PURPOSE OF CIVIL IMMIGRATION ENFORCEMENT; OR

(3) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF AN INDIVIDUAL'S LOCATION, ADDRESS, OR ANY OTHER INFORMATION THAT MAY BE USED TO AID FEDERAL IMMIGRATION AUTHORITIES FOR THE PURPOSE OF CIVIL IMMIGRATION ENFORCEMENT.

(E) WITHOUT A JUDICIAL WARRANT, A STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE MAY NOT DETAIN AN INDIVIDUAL:

(1) BEYOND THE PERIOD PRESCRIBED BY APPLICABLE STATE OR LOCAL LAW; OR

(2) SOLELY FOR A PURPOSE RELATED TO CIVIL IMMIGRATION ENFORCEMENT.

(F) NOTHING IN THIS SECTION SHALL PREVENT A LAW ENFORCEMENT AGENT OR A STATE OR LOCAL CORRECTIONAL AGENT OR EMPLOYEE FROM:

(1) RESPONDING TO:

(I) A REQUEST FROM FEDERAL IMMIGRATION AUTHORITIES FOR INFORMATION ABOUT A SPECIFIC PERSON'S CRIMINAL RECORD WHEN REQUIRED BY STATE OR FEDERAL LAW; OR

(II) A LAWFUL SUBPOENA;

(2) SENDING TO, OR RECEIVING FROM, ANY LOCAL, STATE, OR FEDERAL AGENCY INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL WHEN REQUIRED BY STATE OR FEDERAL LAW; OR

(3) OTHERWISE COMPLYING WITH:

(I) A REQUIREMENT OF STATE OR FEDERAL LAW; OR

(II) A JUDICIAL WARRANT.

Article – General Provisions

TITLE 9. CITIZENSHIP AND IMMIGRATION STATUS.

9–101.

(A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) “CIVIL IMMIGRATION ENFORCEMENT” HAS THE MEANING STATED IN § 5–104 OF THE CRIMINAL PROCEDURE ARTICLE.

(3) “FAMILY MEMBER” MEANS A RELATIVE BY BLOOD, ADOPTION, OR MARRIAGE.

(4) “HOUSEHOLD MEMBER” MEANS A PERSON WHO LIVES WITH, OR IS

1 A REGULAR PRESENCE IN, A HOME OF ANOTHER.

2 (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION AND §
3 5-104(E)(2) OF THE CRIMINAL PROCEDURE ARTICLE, A UNIT OF STATE
4 GOVERNMENT OR LOCAL GOVERNMENT OR AN AGENT OR EMPLOYEE OF A UNIT OF
5 STATE OR LOCAL GOVERNMENT MAY NOT:

6 (1) COORDINATE WITH FEDERAL IMMIGRATION AUTHORITIES IN ANY
7 WAY RELATED TO CIVIL IMMIGRATION ENFORCEMENT;

8 (2) ALLOW FEDERAL IMMIGRATION AUTHORITIES TO ACCESS AN
9 AREA NOT ACCESSIBLE TO THE PUBLIC IN A BUILDING OWNED OR CONTROLLED BY
10 THE STATE OR A LOCAL GOVERNMENT;

11 (3) CONTACT FEDERAL IMMIGRATION AUTHORITIES REGARDING AN
12 INDIVIDUAL WHO MAY BE SUBJECT TO CIVIL IMMIGRATION ENFORCEMENT;

13 (4) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF AN
14 INDIVIDUAL'S RELEASE FROM A STATE CORRECTIONAL FACILITY OR LOCAL
15 CORRECTIONAL FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL
16 SERVICES ARTICLE;

17 (5) COMMUNICATE ANY INFORMATION ABOUT AN INDIVIDUAL WHO IS
18 OR MAY BE SUBJECT TO CIVIL IMMIGRATION ENFORCEMENT TO FEDERAL
19 IMMIGRATION AUTHORITIES;

20 (6) ASSIST IN THE INVESTIGATION OF THE CITIZENSHIP OR
21 IMMIGRATION STATUS OF AN INDIVIDUAL, UNLESS THE CITIZENSHIP OR
22 IMMIGRATION STATUS OF THE INDIVIDUAL IS MATERIAL TO A CRIMINAL
23 INVESTIGATION; OR

24 (7) PROVIDE FEDERAL IMMIGRATION AUTHORITIES WITH ACCESS TO
25 OR USE OF ANY FACILITY, INFORMATION, OR EQUIPMENT OWNED OR CONTROLLED
26 BY A UNIT OF STATE OR LOCAL GOVERNMENT FOR A PURPOSE RELATED TO CIVIL
27 IMMIGRATION ENFORCEMENT.

28 (C) NOTWITHSTANDING § 5-104(E)(2) OF THE CRIMINAL PROCEDURE
29 ARTICLE, A UNIT OF STATE GOVERNMENT OR A LOCAL GOVERNMENT OR AN AGENT
30 OR EMPLOYEE OF A UNIT MAY NOT:

31 (1) CONDITION THE PROVISION OF A BENEFIT, AN OPPORTUNITY, OR
32 A SERVICE ON THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL
33 UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW OR A COURT ORDER;

1 (2) COERCE, INTIMIDATE, OR THREATEN ANY INDIVIDUAL BASED ON
2 THE ACTUAL OR PERCEIVED CITIZENSHIP OR IMMIGRATION STATUS OF THE
3 INDIVIDUAL OR:

4 (I) THE INDIVIDUAL'S FAMILY MEMBER;

5 (II) THE INDIVIDUAL'S HOUSEHOLD MEMBER;

6 (III) THE INDIVIDUAL'S LEGAL GUARDIAN; OR

7 (IV) ANOTHER INDIVIDUAL FOR WHOM THE INDIVIDUAL IS A
8 LEGAL GUARDIAN;

9 (3) REQUIRE AN INDIVIDUAL TO PROVE THE INDIVIDUAL'S
10 CITIZENSHIP OR IMMIGRATION STATUS;

11 (4) REQUIRE AN INDIVIDUAL TO COMPLETE ANY TYPE OF
12 REGISTRATION ON THE BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION,
13 IMMIGRATION STATUS, OR NATIONAL OR ETHNIC ORIGIN;

14 (5) INCLUDE QUESTIONS RELATING TO CITIZENSHIP OR
15 IMMIGRATION STATUS AS PART OF ANY ROUTINE QUESTIONING;

16 (6) REQUEST INFORMATION ABOUT OR INVESTIGATE, OR ASSIST IN
17 THE INVESTIGATION OF, THE CITIZENSHIP OR IMMIGRATION STATUS OF AN
18 INDIVIDUAL, UNLESS THE CITIZENSHIP OR IMMIGRATION STATUS OF THE
19 INDIVIDUAL IS MATERIAL TO A CRIMINAL INVESTIGATION; OR

20 (7) ENTER INTO AN INTERGOVERNMENTAL SERVICES AGREEMENT,
21 OR ANY OTHER AGREEMENT, WITH THE FEDERAL GOVERNMENT FOR ANY PURPOSE
22 RELATED TO CIVIL IMMIGRATION ENFORCEMENT.

23 (D) IF THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL IS
24 RELEVANT TO A PROTECTION ACCORDED TO THE INDIVIDUAL UNDER STATE OR
25 FEDERAL LAW, OR SUBJECT TO A REQUIREMENT IMPOSED BY INTERNATIONAL
26 TREATY, A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT, OR THE AGENT
27 OR EMPLOYEE OF A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT, MAY:

28 (1) NOTIFY THE INDIVIDUAL OF THE PROTECTION OR REQUIREMENT;
29 AND

30 (2) PROVIDE THE INDIVIDUAL AN OPPORTUNITY TO VOLUNTARILY

1 DISCLOSE THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS FOR THE
2 PURPOSE OF RECEIVING THE PROTECTION OR COMPLYING WITH THE
3 REQUIREMENT.

4 **9-102.**

5 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PROVIDING
6 ANY OF THE FOLLOWING DOCUMENTS, IF VALID, SHALL BE ACCEPTED FOR THE
7 PURPOSE OF PROVING AN INDIVIDUAL'S IDENTITY IN THE SAME MANNER THAT A
8 VALID DRIVER'S LICENSE OR STATE-ISSUED IDENTIFICATION CARD IS ACCEPTED
9 FOR THE PURPOSE OF PROVING AN INDIVIDUAL'S IDENTITY, AND MAY NOT SUBJECT
10 AN INDIVIDUAL TO A HIGHER LEVEL OF SCRUTINY OR DIFFERENT TREATMENT:

11 (1) A DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED BY A
12 FOREIGN GOVERNMENT;

13 (2) A PASSPORT ISSUED BY A FOREIGN GOVERNMENT; AND

14 (3) A DOCUMENT ISSUED BY THE EMBASSY OR CONSULATE OF A
15 FOREIGN GOVERNMENT THAT IDENTIFIES THE INDIVIDUAL.

16 (B) THIS SECTION DOES NOT APPLY TO REQUIREMENTS FOR ESTABLISHING
17 IDENTITY ASSOCIATED WITH THE COMPLETION OF A UNITED STATES CITIZENSHIP
18 AND IMMIGRATION SERVICES I-9, EMPLOYMENT ELIGIBILITY VERIFICATION
19 FORM.

20 **9-103.**

21 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, TO THE EXTENT
22 PRACTICABLE, A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT SHALL
23 NOTIFY ANY INDIVIDUAL WHO IS THE SUBJECT OF A REQUEST OR INQUIRY MADE BY
24 FEDERAL IMMIGRATION AUTHORITIES RELATING TO CIVIL IMMIGRATION
25 ENFORCEMENT THAT THE UNIT HAS RECEIVED THE REQUEST OR INQUIRY WITHIN
26 48 HOURS AFTER RECEIVING THE REQUEST OR INQUIRY.

27 (B) IF A REQUEST OR INQUIRY DESCRIBED IN SUBSECTION (A) OF THIS
28 SECTION IS MADE IN WRITING, THE UNIT THAT RECEIVED THE REQUEST OR INQUIRY
29 SHALL PROVIDE THE INDIVIDUAL WHO IS THE SUBJECT OF THE REQUEST OR
30 INQUIRY WITH A COPY OF THE WRITTEN REQUEST OR INQUIRY WHEN PROVIDING
31 NOTICE TO THE INDIVIDUAL UNDER SUBSECTION (A) OF THIS SECTION.

32 **9-104.**

1 **NOTHING IN THIS TITLE SHALL PREVENT A UNIT OF STATE OR LOCAL**
2 **GOVERNMENT, OR AN AGENT OR EMPLOYEE OF A UNIT OF STATE OR LOCAL**
3 **GOVERNMENT, FROM:**

4 **(1) RESPONDING TO:**

5 **(I) A REQUEST FROM FEDERAL IMMIGRATION AUTHORITIES**
6 **FOR INFORMATION ABOUT A SPECIFIC INDIVIDUAL'S CRIMINAL RECORD WHEN**
7 **REQUIRED BY STATE OR FEDERAL LAW; OR**

8 **(II) A LAWFUL SUBPOENA;**

9 **(2) SENDING TO, OR RECEIVING FROM, ANY LOCAL, STATE, OR**
10 **FEDERAL AGENCY INFORMATION REGARDING THE CITIZENSHIP OR IMMIGRATION**
11 **STATUS OF AN INDIVIDUAL WHEN REQUIRED BY STATE OR FEDERAL LAW; OR**

12 **(3) OTHERWISE COMPLYING WITH:**

13 **(I) A REQUIREMENT OF STATE OR FEDERAL LAW; OR**

14 **(II) A JUDICIAL WARRANT, AS DEFINED IN § 5-104 OF THE**
15 **CRIMINAL PROCEDURE ARTICLE.**

16 **Article – State Finance and Procurement**

17 **7-240.**

18 **(A) AN OFFICER OR UNIT OF STATE GOVERNMENT MAY NOT SPEND MONEY**
19 **FROM AN APPROPRIATION, AND A PERSON THAT RECEIVES STATE FUNDS MAY NOT**
20 **USE THE STATE FUNDS, TO:**

21 **(1) KNOWINGLY CREATE OR MAINTAIN A REGISTRY FOR THE**
22 **PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE BASIS OF RELIGION,**
23 **RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS, OR NATIONAL OR**
24 **ETHNIC ORIGIN; OR**

25 **(2) KNOWINGLY PROVIDE INFORMATION TO THE FEDERAL**
26 **GOVERNMENT OR ANOTHER STATE FOR THE CREATION OR MAINTENANCE OF A**
27 **REGISTRY FOR THE PURPOSE OF DISCRIMINATING AGAINST INDIVIDUALS ON THE**
28 **BASIS OF RELIGION, RACE, GENDER, SEXUAL ORIENTATION, IMMIGRATION STATUS,**
29 **OR NATIONAL OR ETHNIC ORIGIN.**

30 **(B) (1) THE STATE MAY NOT REIMBURSE ANY EXPENDITURE TO THE**
31 **EXTENT THAT THE EXPENDITURE VIOLATES SUBSECTION (A) OF THIS SECTION.**

1 **(2) THE STATE IS NOT OBLIGATED TO APPROPRIATE MONEY TO PAY**
2 **AN EXPENDITURE THAT VIOLATES SUBSECTION (A) OF THIS SECTION.**

3 **(C) EACH EMPLOYEE OR OFFICER OF THE STATE GOVERNMENT WHO MAKES**
4 **AN EXPENDITURE OR RECEIVES STATE FUNDS THAT VIOLATE SUBSECTION (A) OF**
5 **THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION, INCLUDING TERMINATION,**
6 **UNDER THE APPLICABLE DISCIPLINARY AND GRIEVANCE PROCEDURES IN TITLES**
7 **11 AND 12 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Attorney General, in
9 consultation with the appropriate stakeholders, shall develop guidelines to assist public
10 schools, hospitals, and courthouses to draft policies that limit civil immigration
11 enforcement activities on their premises in order to ensure these facilities remain safe and
12 accessible to all, regardless of immigration status.

13 SECTION 3. AND BE IT FURTHER ENACTED, That public schools, hospitals, and
14 courthouses may establish and publish policies that limit immigration enforcement on their
15 premises to the fullest extent possible consistent with federal and State law based on the
16 guidelines developed by the Attorney General.

17 SECTION 4. AND BE IT FURTHER ENACTED, That, in order to ensure that
18 eligible individuals are not deterred from seeking services or engaging with State agencies,
19 all State agencies shall review their confidentiality policies and identify any changes
20 necessary to ensure that information collected from individuals is limited to that which is
21 necessary to perform agency duties, does not include inquiries into immigration status
22 unless required by federal law or necessary to make a determination of eligibility, and is
23 not used or disclosed for any other purpose. Any necessary changes to those policies shall
24 be made as expeditiously as possible, consistent with agency or department procedures.

25 SECTION 5. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
26 the application thereof to any person or circumstance is held invalid for any reason in a
27 court of competent jurisdiction, the invalidity does not affect other provisions or any other
28 application of this Act that can be given effect without the invalid provision or application,
29 and for this purpose the provisions of this Act are declared severable.

30 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2021.

- I. Policy
- II. Definitions
- III. Procedures Concerning Immigration Violations
- IV. Arresting Foreign Nationals
- V. Assisting Federal Authorities
- VI. Asylum
- VII. Notification Information

I. Policy

It is the policy of the M-NCPPC Park Police to treat all persons with respect, compassion, courtesy, equality, and professionalism regardless of citizenship or immigration status. In consideration of the delicate balance between crime prevention, immigration concerns, and unwillingness of eyewitnesses to come forward, unless mandated by Federal or State law, we will endeavor not inquire about the immigration status of a person in the normal course of fulfilling our duties. This includes interviewing witnesses and victims of crime. This Directive also establishes guidelines when dealing with possible violations of immigration statutes; arrests of foreign nationals; and responding to aliens' requests for asylum.

II. Definitions

- A. Asylum: a form of protection that allows individuals in United States to remain in the United States.
- B. Consular Officer: A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.
- C. Foreign National: Any person who is not a U.S. citizen.
- D. USCIS: United States Citizenship and Immigration Services, is a component of the United States Department of Homeland Security (DHS). It performs many administrative functions formerly carried out by the former United States Immigration and Naturalization Service (INS), which was part of the Department of Justice.
- E. ICE: U.S. Immigration and Customs Enforcement enforces federal laws governing border control, customs, trade and immigration to promote homeland security and public safety.
- F. Administrative Warrant: An Administrative (civil) warrant is issued by an immigration official for suspected violations of immigration laws. An administrative (civil) warrant does not include a criminal warrant signed by a judge or a magistrate and it will not be used by officers of the Maryland-National Capital Park Police as the basis to detain or arrest a

person.

- G. State-law Release Date: the date on which the probable cause to detain or legal ability to constitutionally hold an individual expires; generally after service of the charges, release on own recognizance, release from incarceration after pre-trial bail has been posted, or sentence has been served.
- H. Judicial Warrant: A warrant issued by a neutral magistrate or judge based upon probable cause that a law has been violated (typically a criminal law).

III. Procedures Concerning Interaction with Foreign Nationals and Potential Immigration Violations

A. Contacts with Persons believed to be Foreign Nationals:

- 1. Officers will not initiate an investigation or otherwise take law enforcement action solely based on the actual or perceived immigration status of an individual, including the initiation of a stop, apprehension, arrest or any other field contact.
- 2. Persons are not required to prove their citizenship status, country of origin, or information related to their immigration status in the United States.
- 3. Officers will not request identification for the sole purpose of determining a person's immigration status.
- 4. A stop may not be prolonged, and an individual may not be detained solely for questions related to a person's immigration status.
- 5. When persons are being interviewed about potential criminal or traffic violations, Officers may not question about the person's immigration status; nor should immigration status be a part of routine questioning.

B. Administrative (Civil) Immigration Warrants

- 1. "Administrative Warrants" for deportation and removal are civil in nature, and not criminal.
- 2. The enforcement of civil federal immigration laws falls exclusively within the authority of ICE. Thus, state and local law enforcement officers do not have the legal

grounds to stop, detain, search or arrest an individual based solely on an administrative warrant, unless they have been deputized by ICE to do so (287(g) agreement.) The Commission is not party to a 287(g) Agreement.

3. When an officer receives information in an NCIC database on a person, the officer must attempt to determine whether the warrant is an administrative warrant. To make this determination, the officer must review the introductory message at the beginning of the “notice” from NCIC. If it is administrative in nature, it will contain the following language:
 - a. “SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL/DEPORTATION FROM THE UNITED STATES”; or
 - b. “SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS”.
4. Officers conducting a stop or arrest of a person found to be the subject of an administrative warrant shall contact the On Duty Officer/Commander and advise the ODO.
5. In no event may any Officer(s) detain the person longer than required for the initial stop or for the arrest.
6. If the officer is unable to determine the nature of the warrant, the officer will promptly contact his or her shift supervisor for consultation and a final decision. The shift supervisor will exercise due diligence to determine the existence of an administrative (civil) warrant, and, if necessary, detain the individual for a reasonable amount of time until such determination can be made. For purposes of this policy, a reasonable amount of time shall not exceed sixty (60) minutes, in accordance with routine NCIC “hit” confirmation procedures. Once the shift supervisor concludes that the NCIC “hit” was for an administrative (civil) immigration warrant as opposed to a criminal warrant, then the person will immediately be released. An Incident Report detailing the encounter must be completed. Release of a detained individual is only prudent when the warrant is an administrative warrant.
7. The 4th Amendment does not consider the detention of a Foreign National to be reasonable, if the basis for continued detention is an administrative warrant. *Santos v. Frederick County Bd. of Cm’rs, et al.*, 346 F.Supp.3d 785 (D.Md 2018). **Officers may have personal liability as well as bringing liability onto the Commission for such a detention.**
8. See Appendix A for sample NCIC notices for administrative and criminal warrants.

C. Judicial Warrants (Criminal ICE Warrants)

1. A Judicial Warrant is a warrant that is issued by a Judge after he or she has determined that sufficient probable cause exists to show that the subject of the warrant has committed a crime. (Judicially issued body attachments also fall within this category.) As such, it is not a violation of the 4th Amendment to arrest an individual on the basis of a judicially issued warrant.
2. Criminal ICE Warrants are a type of Judicial Warrant that has been issued by a Judge after he or she has determined that sufficient probable cause exists to show that the subject of the warrant has committed a crime and for which the individual is subject to immigration consequences. See Appendix A. For convenience, we will refer to these simply as, "Judicial Warrants."
3. When a Judicial Warrant is located in the NCIC database during a traffic stop or an investigation, the individual will be detained and confirmation with ICE will be made.
4. Before any further detention, arrest or search (incident to arrest) is made, it must be confirmed that the Judicial Warrant is both active and is for a criminal offense.
5. If after a thorough investigation which includes consultation with the shift supervisor that concludes the determination that no criminal warrant exists, then the incident will be documented on an Incident Report.
6. If ICE is unable to immediately determine the nature of the warrant, the officer shall promptly contact his or her shift supervisor for consultation and a final decision. The shift supervisor will exercise due diligence to determine the existence of a Judicially issued warrant, and, if necessary, detain the individual for a reasonable period of time until such determination can be made. For purposes of this policy, a reasonable amount of time will not exceed sixty (60) minutes, in accordance with routine NCIC "hit" confirmation procedures.
7. Upon confirmation from ICE that a Judicial Warrant exists, the person will be arrested and processed.
8. *The arresting officer will notify ICE by telephone (refer to section VI) as soon as possible after the arrest **for specific offenses**, and provide the following information:*
 - a. *Full name of the arrested subject*

- b. Date and place of birth*
- c. When and where the foreign national entered the United States (if known)*
- d. Charges against the foreign national or the reason for the arrest*
- e. The registered alien file number (this number appears on the Resident Alien Card or "green card" issued to registered resident foreign nationals and should be in their possession). If no card is available, ICE will advise the officer of what action to take. The Resident Alien Card is known by many as a "green card," however the color of the card depends on the date it was issued.*

IV. Assisting Federal Authorities

- A. Maryland-National Capital Park Police officers are permitted to assist ICE officers and employees in matters such as: customs violations, money laundering, narcotics cases, gang cases, human trafficking, terrorist activities, and execution of criminal warrant or court orders issued by a federal judge or magistrate.
- B. All operational requests for assistance made by ICE or other immigration officials that do not have a nexus to criminal activity will require the approval of the Chief of Police on a case by case basis.
- C. Nothing in this directive prohibits Maryland-National Capital Park Police officers from responding to or remaining on the scene of any federal criminal law enforcement investigation, or to assist with officer or public safety.

V. Arresting Foreign Nationals

- A. Upon arrest of a foreign national, the Division will offer to contact the appropriate Consulate and, in those instances where required, the appropriate Consulate will be contacted regardless of the arrestee's wishes.
- B. When foreign nationals are arrested or detained, they must be advised of the right to have their consular officials notified.
 - 1. After determining the country of origin, personnel will, without delay, notify the foreign national of their rights to consular notification and if the foreign national desires notification, that country's consular representatives should be notified of the

arrest as soon as possible. *Officers may obtain assistance and advice from the U.S. Department of State's 24-hour Operations Center at (202) 647-1512.*

2. Notification is mandatory for some foreign nationals. A list of mandatory notification countries, jurisdictions and phone numbers are available at <https://travel.state.gov/content/travel/en/consularnotification/countries-and-jurisdictions-with-mandatory-notifications.html>
 3. In all cases, make notifications without delay. The type of notification, mandatory or requested, must appear in the narrative of the report and be made via Notification of Detention/Arrest of Foreign National form.
 4. Lawful permanent resident aliens, who have a *Permanent Resident Card (Form I-551, commonly referred to as a "Green Card")* retain their foreign nationality and must be considered "foreign nationals" for the purposes of consular notification.
- C. Consular officials are entitled access to their nationals in detention and are entitled to provide consular assistance.
- D. When a government official becomes aware of the death of a foreign national, consular officials must be notified.
- E. When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or is incompetent, consular officials must be notified.
- F. When a foreign ship or aircraft wrecks or crashes, consular officials must be notified.
- G. Information on the closest consular office may be obtained 24 hours a day by telephoning the U.S. Department of State Operations Center at (202) 647-1512.
- H. In general, officers should permit a consular officer the same access to a foreign national that would be appropriate for an American consular in a similar situation in a foreign country.

VI. Asylum

- A. Foreign nationals who request asylum in the U.S. should be given full opportunity to have their requests considered.
- B. If a member of the Division is contacted by a person who requests asylum, the member will

immediately contact their supervisor who will notify the Chief, *Park Police Division* via chain of command, and refer the matter to the *United States Citizenship and Immigration Services* immediately. The member will also notify the U.S. Department of State - Diplomatic Security Service Command Center at: 1-866-217-2089 or (571) 345-3146

VII. Notification Information

A. Immigration and Customs Enforcement (ICE)

1. Officers are encouraged to seek assistance 24 hours a day from the ICE Law Enforcement Support Center (LESC) at (802) 872-6050 or via NLETS Administrative Message (AM) to VTINS07S0
2. The agents at the Baltimore Field Office can be reached at (410) 637-4000, (1-800-1630 weekdays).

B. United States Citizenship and Immigration Services - Officers may contact the USCIS National Customer Service Center line at (800) 375-5283

C. U.S. Department of State's 24-hour Operations Center at (202) 647-1512.

Issuing Authority:

Chief Darryl McSwain
Maryland-National Capital Park Police
Montgomery County Division

Chief Stanley Johnson
Maryland-National Capital Park Police
Prince George's County Division

End of Directive

Appendix A
Sample Results from NCIC
Inquiry

SAMPLE RESPONSE FROM NCIC INQUIRY: ADMINISTRATIVE (CIVIL) WARRANTS

Administrative Warrant of Removal:

WARNING REGARDING FOLLOWING RECORD - SUBJECT HAS AN OUTSTANDING
ADMINISTRATIVE WARRANT OF REMOVAL FROM THE UNITED STATES CONTACT
LESC
AT(877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - FAILURE TO APPEAR FOR REMOVAL
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN
DOB/19510101
HGT/510 WGT/100 EYE/BRO HAI/BRO CTZ/FN SKN/DRK
SMT/SC LF ARM
SOC/777010000
OFF/ALIEN UNLAWFULLY PRESENT DUE TO ORDER OF REMOVAL OR EXCLUSION FROM THE
USA
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT
SUPPORT CENTER (877) 999-5372
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST
*****THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL
JUSTICE PURPOSES.
*****END OF IMMIGRATION VIOLATOR FILE RESPONSE*****

Administrative Warrant of Arrest:

WARNING REGARDING FOLLOWING RECORD - SUBJECT OF NIC/N307770847 HAS AN OUTSTANDING
ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS FOR FAILURE TO COMPLY
WITH NS REGISTRATION. CONTACT LESC AT(877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION
AND AVAILABILITY OF BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - NS REGISTRATION
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN
DOB/19510101
HGT/510 WGT/100 EYE/BRO HAI/BRO CTZ/FN SKN/DRK
SMT/SC LF ARM
SOC/777010000
OFF/SOUGHT FOR VIOLATION OF NS REGISTRATION
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT
SUPPORT CENTER (877) 999-5372
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST
*****THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL
JUSTICE PURPOSES.
*****END OF IMMIGRATION VIOLATOR FILE RESPONSE*****

Sample Response from NCIC Inquiry

SAMPLE RESPONSE FROM NCIC INQUIRY: CRIMINAL ICE WARRANT

One Example of a Criminal ICE Warrant:

***MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FOLONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.

MKE/WATNED PERSON

EXL/1 - FULL EXTRADITION UNLES OTHERWISE NOTED IN THE IS FIELD

ORI/VTICE0900 NAM/TEST, TEST SEX/M RAC/W POB/EY

DOB/19000101 HGT/509 WGT/175 EYE/BRO HAI/BLK

SKN/LGT

MNU/PP-1234567 SOC/123456789

OFF/FRAUD - FALSE STATEMENT

DOW/20090114 OCS/2-M-TEST

VLD/20120411

MIS/CRIMINAL WARRANT IN VIOLATION OF TITLE 18 USC, SECTION 1542, FALSE STATEMENT

MIS/ON A PASSPORT APPLICATION; ISSUED BY THE US DISTRICT COURT, EASTERN

MIS/DISTRICT OF VIRGINIA

DNA/N

ORI IS ICE LESC 802-872-6020

DOB/19730515

AKA/TESTER, TEST

AKA/ALPHA, BET

MNU/PP-5678943

SOC/9854321

NIC/W123456789 DTE/20090115 1510 EST DLU/20120411 1301 EST

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI