

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 828

(Senator Smith)

Judicial Proceedings

Judiciary

Immigration Enforcement - Sensitive Locations - Access, Guidance, and Policies
(Protecting Sensitive Locations Act)

This bill, without application to a State or local correctional facility, requires a public school, a public library, or a unit of the Executive Branch of State government that operates at a “sensitive location” to deny access to any portion of the sensitive location that is not accessible to the general public to any individual seeking access for the purpose of enforcing federal immigration law unless the individual presents a valid warrant issued by a federal court or a court of the State or exigent circumstances exist. The Attorney General must develop and publish guidance regarding (1) immigration enforcement at sensitive locations, as specified and (2) the rights and responsibilities of individuals who interact with federal law enforcement personal acting to enforce federal immigration law. By October 1, 2025, each public school, public library, and unit of the Executive Branch of State Government operating at a sensitive location must implement a policy consistent with the guidance issued by the Attorney General. The required guidance and policies are not subject to the Administrative Procedure Act under Title 10, Subtitles 1, 2, and 3 of the State Government Article. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: It is assumed that the Office of the Attorney General can develop and publish the required guidance with existing resources. Although the bill otherwise is not anticipated to materially affect State operations or finances, any affect depends on the guidance developed.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The Attorney General must develop and publish guidance regarding immigration enforcement at sensitive locations that informs the public and relevant State agencies about the limitations on federal immigration enforcement at sensitive locations and the responsibilities and restrictions on State agencies that affect the agencies' ability to ensure compliance with federal and State law while maintaining public safety and accessibility.

“Sensitive location” means:

- a public school;
- a public library;
- a health care facility operated by a unit of State government;
- a facility operated by the Comptroller;
- a courthouse; or
- any other location that (1) provides State-funded services related to physical or mental health, education, or shelter care and (2) as determined by the Attorney General, requires special consideration for immigration enforcement activities.

Current Law: While immigration is controlled by federal law, the U.S. Immigration, Customs, and Enforcement Division (ICE) and the Department of Homeland Security have initiated numerous programs that involve state and local law enforcement agencies as allies and additional resources. For example, the Criminal Alien Program (CAP) supports ICE Enforcement and Removal Operations in executing its mission through the arrest and removal of undocumented immigrants who threaten the safety of the nation's communities and the integrity of U.S. immigration laws. CAP focuses on the identification, arrest, and removal of incarcerated undocumented immigrants at federal, state, and local levels, as well as at-large criminal undocumented immigrants.

Federal law does not mandate that state and local law enforcement agencies become involved in immigration efforts. However, federal law does prohibit a state or local government from prohibiting or in any way restricting any government entity or official from sending to or receiving from ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual. It also prohibits restrictions on any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual (1) sending such information to, or requesting or receiving such information from, ICE; (2) maintaining such information; or (3) exchanging such information with any other federal, state, or local government authority.

Responding to Immigration Detainers

The Office of the Attorney General of Maryland issued a guidance memorandum in [January 2025](#) pertaining to local enforcement of federal immigration law and includes guidance on immigration detainers. Such detainers are notices sent from ICE to state or local law enforcement agencies that request the agency to continue to hold the individual named in the detainer for up to 48 hours past the date that the individual is otherwise eligible for release. The memorandum notes that immigration detainers are requests only and local officers are not obligated to honor them and may risk violating constitutional rights by doing so. A law enforcement agency's decision to comply with a detainer request and hold an individual beyond the individual's normal release date constitutes a new "seizure." That new seizure must be justified under the Fourth Amendment of the U.S. Constitution and the analogous provisions of Article 26 of the Maryland Declaration of Rights. The Attorney General specifically notes that the requirements of the Fourth Amendment do not change because ICE has issued a detainer request to a law enforcement agency.

Database Access

Chapter 18 of the 2021 special session modified Maryland's Public Information Act (PIA) to require an officer, an employee, an agent, or a contractor of the State or a political subdivision to deny inspection of specified records, and deny inspection using facial recognition searches, by any federal agency seeking access for the purpose of enforcing federal immigration law unless provided with a valid warrant. In addition, a person who receives specified personal information under PIA may not disclose the information to a federal agent or federal agency for the purpose of federal immigration enforcement unless presented with a valid warrant. The Motor Vehicle Administration, the Department of State Police, and the Department of Public Safety and Correctional Services must submit a specified annual report to the General Assembly on records requests from federal agencies seeking access for immigration enforcement purposes. In addition, State and local law enforcement agencies and other specified entities that operate a specified database must deny access to the database to an individual seeking access for the purpose of enforcing federal immigration law, unless provided with a valid warrant.

Federal Immigration Detention Agreements

Chapter 19 of the 2021 special session prohibits the State, local governments, and specified State and local agents from (1) entering into an agreement of any kind for the detention of individuals in an immigration detention facility owned, managed, or operated, in whole or in part, by a private entity; (2) paying, reimbursing, subsidizing, or defraying in any way any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned,

managed, or operated, in whole or in part, by a private entity; (3) receiving any payment related to the detention of individuals in an immigration detention facility owned, managed, or operated in whole or in part, by a private entity; or (4) otherwise giving any financial incentive or benefit to any private entity or person in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity.

The State, local governments, and specified State and local agents are prohibited from approving a zoning variance or issuing a permit for the construction of a building or the reuse of existing buildings or structures by any private entity for use as an immigration detention facility unless the entity (1) provides notice to the public of the proposed zoning variance or permit action at least 180 days before authorizing the variance or issuing the permit and (2) solicits and hears public comments on the proposed zoning variance or permit action in at least two separate meetings open to the public.

The State, local governments, and specified State and local agents are prohibited from entering into or renewing an immigration detention agreement. Those with an existing immigration detention agreement must exercise the termination provision contained in the immigration detention agreement no later than October 1, 2022. In any dispute over an immigration detention agreement with the State, these provisions govern. However, the provisions may not be construed to authorize or prohibit the State, local governments, and specified State and local agents from entering into an agreement with the federal government under 8 U.S.C. § 1357(g).

“Immigration detention agreement” means any contract, agreement, intergovernmental service agreement, or a memorandum of understanding that authorizes a State or local government agency to house or detain individuals for federal civil immigration violations. “Immigration detention facility” means any building, facility, or structure used, in whole or in part, to house or detain individuals for federal civil immigration violations.

Immigration Status and Law Enforcement Agents

Chapter 19 further prohibits a law enforcement agent, during the performance of regular police functions from (1) inquiring about an individual’s citizenship, immigration status, or place of birth during a stop, a search, or an arrest; (2) detaining, or prolonging the detention of an individual for the purpose of investigating the individual’s citizenship or immigration status, or based on the suspicion that the individual has committed a civil immigration violation; (3) transferring an individual to federal immigration authorities unless required by federal law; or (4) coercing, intimidating, or threatening any individual based on the actual or perceived citizenship or immigration status of the individual or specified individuals that are generally related to the individual.

Nothing in the provisions prevent a law enforcement agent from inquiring about any information that is material to a criminal investigation.

If the citizenship or immigration status of an individual is relevant to a protection accorded to the individual under State or federal law, or subject to a requirement imposed by international treaty, a law enforcement agent may (1) notify the individual of the protection or requirement and (2) provide the individual an opportunity to voluntarily disclose the individual's citizenship or immigration status for the purpose of receiving the protection or complying with the requirement.

“Civil immigration violation” means a violation of federal civil immigration law.

“Law enforcement agent” means an individual who is certified by the Maryland Police Training and Standards Commission. “Law enforcement agent” does not include an agent or employee of a State correctional facility or local correctional facility. “Arrest” does not include a routine booking procedure.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford County; Maryland-National Capital Park and Planning Commission; Baltimore City Community College; Maryland Department of Emergency Management; City of Annapolis; Maryland Municipal League; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Maryland Department of Health; Department of Human Services; Department of Juvenile Services; Department of Natural Resources; Maryland Department of Transportation; Maryland Food Center Authority; Maryland Independent College and University Association; Baltimore City Public Schools; Baltimore County Public Schools; Montgomery County Public Schools; Department of Legislative Services

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