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Senate Bill 903
Immigration Enforcement - Public Schools, Hospitals, and Courthouses - Policies
Senate Judicial Proceedings Committee
SUPPORT

The Maryland Access to Justice Commission (A2JC) is an independent entity that unites leaders to drive reforms and innovations to make the civil justice system more accessible, user-friendly and fair for all Marylanders. A2JC is comprised of prominent leaders from different segments of the legal community in Maryland – including the deans of the two law schools, the attorney general, law firm partners, heads of the legal services providers and funders, corporate counsel, academics, legislators, the state bar and judiciary. A2JC is a proud partner of the Maryland State Bar Association (MSBA).

A2JC supports SB903 and requests a favorable report. The bill simply requires the Maryland Office of the Attorney General to promulgate guidelines consistent with federal and state law that schools, hospitals and courthouses could use to develop their own policies to limit ICE enforcement on their premises. A2JC has studied the issue of ICE enforcement in state courts and supports curtailing ICE presence and arrests in and around courthouses. A survey¹ A2JC conducted in 2018 to study the scale and scope of ICE arrests in state courts found that the enforcement in courts was:

1. impeding the ability of all Marylanders to access equal justice under law;
2. undermining the ability of the courts to administer justice fairly and efficiently; and
3. impacting public trust in the justice system and the rule of law.

A2JC's survey found that ICE flouts its own policy² to "generally avoid enforcement actions in courthouses" and have enforcement take place in "non-public areas"

Incidents of ICE court arrests were reported across the state, with 10 jurisdictions reporting the most activity. Survey respondents reported a total of 72 witnessed arrests between January 2017 and October 2018. This may be an undercount as organizations that routinely work with detainees and track how individuals end up in detention provided a count in the range of 110-154 arrests for the time period. ICE court arrests were

¹ A2JC's survey yielded responses from 106 individuals from 60 organizations representing every jurisdiction in the state. The organizations were comprised of legal and social services providers, private attorneys, community, faith-based and health organizations and other entities that serve immigrant communities in Maryland.

² See, [January 2018 ICE Directive entitled "Civil Immigration Enforcement Actions Inside State Court"](#)

reported to have happened in courtrooms, courthouse halls, and courthouse parking lots - always in public view and usually by ICE agents in plain clothes. Court security personnel and judges were informed and aware of ICE's presence in courts. Sheriff's offices were also informed. Sometimes, they were aware of the individuals who would be targeted for arrest.

ICE Arrests in state courts are causing substantial impact on our justice system

The survey also demonstrated the ICE court arrests caused substantial collateral impact to Marylanders and the justice system as a whole. **Fear of going to court and interacting with the justice system was pervasive, highlighted by the finding that people were more fearful of going to court than interacting with law enforcement.**

The survey found that the ICE court arrests caused many Marylanders to forego their shot at justice, choosing not to pursue or defend potentially meritorious cases. About 50% of the respondents reported that they encountered at least one individual who refused to file an action or defend a case because of ICE court arrests. Marylanders chose not to apply for public benefits, pursue housing actions, and file wage theft claims. However, in the largest area where individuals were reticent to pursue claims was domestic violence, respondents reported 472 instances where individuals did not file or were afraid to file a domestic violence or sexual assault case. Additionally, respondents reported 411 instances where individuals did not file or were afraid to file a family law case, and 338 instances in which they did not file or were afraid to file an immigration case.

The survey further showed how ICE court arrests impacted the administration of justice. People were afraid to serve as witnesses in cases, opposing attorneys were using the threat of an ICE arrest to sway case outcomes, and bench warrants were issued for individuals in ICE custody. A quarter of the respondents reported encountering at least one person who refused to serve or was afraid to serve as a witness in a case. This cohort reported approximately 110 cases where witnesses refused to testify because of the fear of an ICE court arrest. Thirty-eight percent of respondents encountered at least one individual who had been threatened by or was afraid of an opposing party or attorney calling ICE on them. Twenty-six percent of respondents reported encountering at least one client being arrested by ICE immediately upon release from State custody, causing the client to miss his upcoming criminal hearing and have an outstanding bench warrant.

ICE arrests in state courts are deleterious to the rule of law and access to justice

ICE arrests in courts are having a chilling effect and are freezing out many Marylanders from their opportunity to access justice. They are impeding the administration of justice and negatively affecting the public's perception of courts as a destination for justice. Our courts are one of the core foundations of our democracy and when people opt out because of fear of ICE, it hurts the rule of law and the promise of justice for all Marylanders.

For the reasons stated, the Maryland Access to Justice Commission requests the Senate Judicial Proceedings Committee to issue a FAVORABLE report on SB903. For more information, please contact Reena K. Shah, ED of the Maryland Access to Justice Commission, at reena@msba.org.

The Maryland Access to Justice Commission is an independent entity and does not endorse or oppose any political party or candidate for elected office.