

HB 388: Criminal Procedure- Civil Immigration Enforcement- Restrictions
Testimony

Good Afternoon, My name is Maricé Morales, I am a former State Delegate of Maryland for District 19 and I am currently the owner of my own law practice, The Law Office of Maricé Morales located in Montgomery County. My practice includes working with the immigrant community as it may refer to a personal injury claim, their representation in a criminal or immigration matter.

I am here today to voice my support for HB 388. I am the original sponsor of the bill that HB 388 stems from. The original bill, The Trust Act, passed every single time it was sent to Judiciary and also in the House. As a practicing attorney, I have represented clients who are detained awaiting trial, simply for the nature or type of charge the state is alleging against them. For that reason, ICE can arbitrarily place a detainer — meaning the county jail has to release the detainee to immigration enforcement once the state court process is concluded.

Detainers are not constitutionally sound instruments. They are not the equivalent to a judicial warrant for example, that are reviewed by an impartial judge that has weighed the proper factors to require that an individual be held for longer than the constitutional limit, for immigration to come pick them up from state custody, to conduct their own business with the immigrant detainee afterwards.

Our current policies that allow ICE to have access to our county detainees awaiting trial, goes against our own local interests that should incentivize cooperation and trust in law enforcement and judicial proceedings. For example, an individual who is picked up by county police, simply because they fit the description of an accused in the vicinity, can theoretically be placed in removal proceedings and ultimately deported for a crime they did not commit. An individual with no criminal record, with no indices of being a flight risk or a danger to themselves or the community, will remain incarcerated awaiting trial simply because the type of charge alleged against them arbitrarily got on ICE's radar and that decision was not reviewed by an impartial judge.

When a non-immigrant defendant could seek being released on a bond, or availing themselves of pretrial services that ensure court attendance, immigrant defendants remain incarcerated for long periods of time, costing more to the taxpayer than if they were to be released on their recognizance as they await trial. Remember that the constitution ensures that every defendant be treated as innocent until they're proven guilty. The current practices result in incarceration periods often longer than the sentence would be for the crime committed.

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It has come to my attention by several of my legal colleagues, that this type of scenario tends to happen more often than not, making it too heavy of a burden for our communities to bear.

For those reasons, I urge a FAVORABLE report on HB 388.