

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0208.02 Michael Dohr x4347

HOUSE BILL 19-1124

HOUSE SPONSORSHIP

Benavidez, Buckner, Caraveo, Coleman, Duran, Galindo, Gonzales-Gutierrez, Hooton, Lontine, Melton

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTING COLORADO'S RIGHT TO BE FREE FROM**
102 **CERTAIN FEDERAL MANDATES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a department, agency, board, commission, or officer or employee of the state or a political subdivision of the state from using public funds or resources to assist in the enforcement of federal civil immigration laws. The bill allows a state employee or employee of a political subdivision of the state to cooperate or assist federal immigration enforcement authorities in the execution of a warrant issued

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

by a federal judge or magistrate or honoring any writ issued by any state or federal judge concerning the transfer of a prisoner to or from federal custody.

The bill prohibits the state or a political subdivision of the state from entering into any contractual agreement that would require an employee to directly or indirectly assist in the enforcement of federal civil immigration laws.

The bill prohibits federal immigration authorities access to the secure areas of any city or county jail or other law enforcement facility for the purpose of conducting investigative interviews or for any other purpose related to the enforcement of federal civil immigration laws unless federal immigration authorities present a warrant issued by a federal judge or magistrate.

The bill prohibits a law enforcement officer from arresting or detaining an individual solely on the basis of a civil immigration detainer.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado has the right to be free from mandates or financial
5 obligation to perform the duties of the federal government, or to be
6 threatened or coerced to do so by withholding federal funding; and

7 (b) Colorado has a history of welcoming immigrants whose
8 culture of dedication and pride continue to build a great state with one of
9 the nation's strongest economies and lowest unemployment rates; and

10 (c) Coloradans have the right to due process and protection
11 against unreasonable searches and seizures; and

12 (d) Colorado is healthier when all residents have access to public
13 health and human services programs; and

14 (e) Colorado is economically and socially stronger when all
15 children attend school; and

16 (f) Colorado is safer when all people feel safe reporting crime or
17 themselves as victims of a crime and participate and assist local law

1 enforcement in identifying and preventing crime; and

2 (g) The Colorado judicial system serves as a vital forum for
3 ensuring access to justice that is secured by section 6 of article II of the
4 state constitution; and

5 (h) In times of crises, Colorado courts are the main points of
6 contact for the most vulnerable, including crime victims, victims of
7 sexual abuse and domestic violence, witnesses to crimes who are aiding
8 law enforcement, limited English speakers, unrepresented litigants, and
9 children and families, who seek justice and due process of law without
10 fear of arrest from federal immigration enforcement agents; and

11 (i) It is a good public policy for state employees not to conduct the
12 work of federal immigration enforcement, with limited exceptions when
13 already required by state or federal law.

14 (2) Therefore, it is necessary to adopt this act to further the
15 preservation of the peace, health, and safety of Colorado.

16 **SECTION 2.** In Colorado Revised Statutes, **add** article 76.6 to
17 title 24 as follows:

18 **ARTICLE 76.6**

19 **Prioritizing State Enforcement of**

20 **Civil Immigration Law**

21 **24-76.6-101. Definitions.** AS USED IN THIS ARTICLE 76.6, UNLESS
22 THE CONTEXT OTHERWISE REQUIRES:

23 (1) "CIVIL IMMIGRATION DETAINER" MEANS A WRITTEN REQUEST
24 ISSUED BY FEDERAL IMMIGRATION ENFORCEMENT AUTHORITIES PURSUANT
25 TO 8 CFR 287.7 TO LAW ENFORCEMENT OFFICERS TO MAINTAIN CUSTODY
26 OF AN INDIVIDUAL BEYOND THE TIME WHEN THE INDIVIDUAL IS ELIGIBLE
27 FOR RELEASE FROM CUSTODY, INCLUDING ANY REQUEST FOR LAW

1 ENFORCEMENT AGENCY ACTION, WARRANT FOR ARREST OF ALIEN, ORDER
2 TO DETAIN OR RELEASE ALIEN, OR WARRANT OF REMOVAL/DEPORTATION
3 ON ANY FORM PROMULGATED BY FEDERAL IMMIGRATION ENFORCEMENT
4 AUTHORITIES.

5 (2) "ELIGIBLE FOR RELEASE FROM CUSTODY" MEANS THAT AN
6 INDIVIDUAL MAY BE RELEASED FROM CUSTODY BECAUSE ONE OF THE
7 FOLLOWING CONDITIONS HAS OCCURRED:

8 (a) ALL CRIMINAL CHARGES AGAINST THE INDIVIDUAL HAVE BEEN
9 DROPPED OR DISMISSED;

10 (b) THE INDIVIDUAL HAS BEEN ACQUITTED OF ALL CRIMINAL
11 CHARGES FILED AGAINST HIM OR HER;

12 (c) THE INDIVIDUAL HAS SERVED ALL THE TIME REQUIRED FOR HIS
13 OR HER SENTENCE;

14 (d) THE INDIVIDUAL HAS POSTED A BOND OR HAS BEEN RELEASED
15 ON HIS OR HER OWN RECOGNIZANCE;

16 (e) THE INDIVIDUAL HAS BEEN REFERRED TO PRETRIAL DIVERSION
17 SERVICES; OR

18 (f) THE INDIVIDUAL IS OTHERWISE ELIGIBLE FOR RELEASE UNDER
19 STATE OR MUNICIPAL LAW.

20 (3) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER
21 EMPLOYED BY THE COLORADO STATE PATROL, A MUNICIPAL POLICE
22 DEPARTMENT, A TOWN MARSHAL'S OFFICE, OR A COUNTY SHERIFF'S
23 DEPARTMENT.

24 (4) "PERSONAL INFORMATION" MEANS ANY CONFIDENTIAL
25 IDENTIFYING INFORMATION ABOUT AN INDIVIDUAL, INCLUDING BUT NOT
26 LIMITED TO HOME OR WORK CONTACT INFORMATION; FAMILY OR
27 EMERGENCY CONTACT INFORMATION; DATE OR TIME OF RELEASE FROM

1 CUSTODY; PROBATION MEETING DATE AND TIME; COMMUNITY
2 CORRECTIONS LOCATIONS; COMMUNITY CORRECTIONS MEETING DATE AND
3 TIME; THE INDIVIDUAL'S MEETING DATE AND TIME FOR CRIMINAL
4 COURT-ORDERED CLASSES, TREATMENT, AND APPOINTMENTS; OR
5 INFORMATION RELATED TO WORK RELEASE PROGRAMS.

6 (5) "SECURE AREA" MEANS ANY AREA OF THE FACILITY THAT IS
7 NOT GENERALLY OPEN AND ACCESSIBLE TO THE GENERAL PUBLIC BUT
8 INSTEAD REQUIRES SPECIAL PERMISSION FOR ADMITTANCE BY A LAW
9 ENFORCEMENT OFFICER OR FACILITY EMPLOYEE ON AN INDIVIDUAL BASIS.

10 **24-76.6-102. Use of funds and resources prohibited -**
11 **exceptions.** (1) (a) EXCEPT AS SPECIFICALLY AUTHORIZED IN THIS
12 SECTION, A DEPARTMENT, AGENCY, BOARD, COMMISSION, OR OFFICER OR
13 EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE
14 SHALL NOT USE ANY PUBLIC FUNDS OR RESOURCES TO ASSIST IN THE
15 ENFORCEMENT OF CIVIL IMMIGRATION LAWS. THE PROHIBITION SET FORTH
16 IN THIS SECTION INCLUDES:

17 (I) ASSISTING OR COOPERATING IN AN OFFICIAL CAPACITY WITH
18 ANY INVESTIGATION, DETENTION, OR ARREST PROCEDURES RELATING TO
19 ALLEGED VIOLATIONS OF THE CIVIL IMMIGRATION LAWS;

20 (II) REQUESTING OR DISSEMINATING INFORMATION ABOUT THE
21 IMMIGRATION STATUS OF ANY INDIVIDUAL; AND

22 (III) INITIATING ANY LAW ENFORCEMENT CONTACT SOLELY FOR
23 PURPOSES OF DETERMINING THE IMMIGRATION STATUS OF A PERSON OR
24 ARRESTING OR DETAINING ANY INDIVIDUAL SOLELY ON THE BASIS OF THE
25 INDIVIDUAL'S IMMIGRATION OR CITIZENSHIP STATUS.

26 (b) THE PROVISIONS OF SUBSECTION (1)(a) OF THIS SECTION DO
27 NOT APPLY TO THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, OR

1 TO AN OFFICER OR EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION
2 OF THE STATE, IN AIDING OR ASSISTING THE UNITED STATES CENSUS
3 BUREAU, PROVIDING INFORMATION RELATED TO INVESTIGATIONS OF A
4 HATE OR BIAS CRIME, PROVIDING INFORMATION REQUESTED TO ADDRESS
5 BIAS-BASED DELIVERY OF GOVERNMENT SERVICES, CONTINUING TO
6 PROVIDE INFORMATION USED FOR NATIONAL STATISTICAL PURPOSES SUCH
7 AS FINGERPRINT DATA AND NATIONAL INCIDENT-BASED REPORTING DATA,
8 AND PROVIDING ANY INFORMATION AVAILABLE TO THE PUBLIC UNDER THE
9 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE
10 24. THE PROVISIONS OF SUBSECTION (1)(a) OF THIS SECTION DO NOT APPLY
11 TO INFORMATION PROVIDED BY THE DEPARTMENT OF CORRECTIONS.

12 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION PRECLUDES A
13 STATE EMPLOYEE OR EMPLOYEE OF A POLITICAL SUBDIVISION OF THE
14 STATE FROM COOPERATING OR ASSISTING FEDERAL IMMIGRATION
15 ENFORCEMENT AUTHORITIES IN THE EXECUTION OF A WARRANT ISSUED BY
16 A FEDERAL JUDGE OR MAGISTRATE OR HONORING ANY WRIT ISSUED BY
17 ANY STATE OR FEDERAL JUDGE CONCERNING THE TRANSFER OF A PRISONER
18 TO OR FROM FEDERAL CUSTODY. THE TIME AND RESOURCES EXPENDED BY
19 ANY LAW ENFORCEMENT OFFICER INVESTIGATING AND DETERMINING
20 WHETHER AN IMMIGRATION-RELATED WARRANT LISTED IN ANY CRIME
21 INFORMATION DATABASE IS JUDICIAL OR ADMINISTRATIVE IN NATURE IS
22 NOT A VIOLATION OF SUBSECTION (1) OF THIS SECTION.

23 (3) NOTHING IN SUBSECTION (1) OF THIS SECTION PRECLUDES LAW
24 ENFORCEMENT OFFICERS FROM PARTICIPATING IN COORDINATED LAW
25 ENFORCEMENT ACTIONS WITH FEDERAL LAW ENFORCEMENT AGENCIES, AS
26 LONG AS THE PRIMARY PURPOSE OF THE COORDINATED ACTION IS THE
27 ENFORCEMENT OF LOCAL, STATE, OR FEDERAL CRIMINAL LAWS; EXCEPT

1 THAT, WHILE PARTICIPATING IN COORDINATED LAW ENFORCEMENT, A LAW
2 ENFORCEMENT OFFICER SHALL NOT DISSEMINATE INFORMATION ABOUT
3 THE NATIONAL ORIGIN OR IMMIGRATION OR CITIZENSHIP STATUS OF ANY
4 INDIVIDUAL EXCEPT TO THE EXTENT REQUIRED BY ANY FEDERAL, STATE,
5 OR LOCAL LAW OR REGULATION, INCLUDING 8 U.S.C. SEC. 1373 AND 8
6 U.S.C. SEC. 1644, OR ANY INTERNATIONAL TREATY TO WHICH THE UNITED
7 STATES IS A PARTY.

8 **24-76.6-103. Contracts related to enforcement of federal civil**
9 **immigration laws prohibited.** THE STATE OR A POLITICAL SUBDIVISION
10 OF THE STATE SHALL NOT ENTER INTO A CONTRACTUAL AGREEMENT,
11 INCLUDING ANY SUBCONTRACTS, THAT WOULD REQUIRE AN EMPLOYEE TO
12 DIRECTLY OR INDIRECTLY ASSIST IN THE ENFORCEMENT OF CIVIL
13 IMMIGRATION LAWS, INCLUDING ANY AGREEMENT AUTHORIZED BY 18
14 U.S.C. SEC. 1357 (g), CONSISTENT WITH THE COLORADO SUPREME COURT
15 OPINIONS, *PEOPLE V. BUCKALLEW*, 848 P.2d 904 (COLO. 1993) AND
16 *DOUGLASS V. KELTON*, 610 P.2d 1067 (COLO. 1980). ADDITIONALLY, THE
17 STATE OR A POLITICAL SUBDIVISION OF THE STATE SHALL NOT ENTER INTO
18 ANY INTERGOVERNMENTAL SERVICES AGREEMENT WITH THE UNITED
19 STATES DEPARTMENT OF HOMELAND SECURITY UNDER THE AUTHORITY OF
20 8 U.S.C. SEC. 1103 (a)(11)(B).

21 **24-76.6-104. Limitations on access to secure areas of jails and**
22 **related facilities.** (1) A LAW ENFORCEMENT OFFICER, OR OTHER STATE,
23 COUNTY, OR LOCAL EMPLOYEE, SHALL NOT GRANT FEDERAL IMMIGRATION
24 AUTHORITIES ACCESS TO THE SECURE AREAS OF ANY COUNTY OR LOCAL
25 JAIL, CUSTODIAL FACILITY, PROBATION OFFICE, OR OTHER LAW
26 ENFORCEMENT FACILITY FOR THE PURPOSE OF CONDUCTING
27 INVESTIGATIVE INTERVIEWS OR FOR ANY OTHER PURPOSE RELATED TO THE

1 ENFORCEMENT OF CIVIL IMMIGRATION LAWS OR ALLOW FEDERAL
2 IMMIGRATION AUTHORITIES TO USE THE SECURE AREAS OF ANY COUNTY
3 OR LOCAL JAIL, CUSTODIAL FACILITY, PROBATION OFFICE, OR OTHER LAW
4 ENFORCEMENT FACILITY FOR THE PURPOSE OF CONDUCTING
5 INVESTIGATIVE INTERVIEWS OR FOR ANY OTHER PURPOSE RELATED TO THE
6 ENFORCEMENT OF CIVIL IMMIGRATION LAWS UNLESS FEDERAL
7 IMMIGRATION AUTHORITIES PRESENT A WARRANT ISSUED BY A FEDERAL
8 JUDGE OR MAGISTRATE.

9 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION OR IN SECTION
10 24-76.6-102 PREVENTS LAW ENFORCEMENT OFFICIALS FROM
11 COORDINATING TELEPHONE OR VIDEO INTERVIEWS BETWEEN FEDERAL
12 IMMIGRATION AUTHORITIES AND INDIVIDUALS INCARCERATED IN ANY
13 COUNTY OR LOCAL JAIL OR OTHER CUSTODIAL FACILITY, TO THE SAME
14 EXTENT AS TELEPHONE OR VIDEO CONTACT WITH SUCH INDIVIDUALS IS
15 ALLOWED BY THE GENERAL PUBLIC, IF THE INDIVIDUAL HAS BEEN ADVISED,
16 IN THE INDIVIDUAL'S LANGUAGE OF CHOICE, OF CERTAIN INFORMATION IN
17 WRITING, INCLUDING BUT NOT LIMITED TO:

18 (a) THE INTERVIEW IS BEING SOUGHT BY FEDERAL IMMIGRATION
19 AUTHORITIES;

20 (b) THE INDIVIDUAL HAS THE RIGHT TO DECLINE THE INTERVIEW
21 AND REMAIN SILENT;

22 (c) THE INDIVIDUAL HAS THE RIGHT TO SPEAK TO AN ATTORNEY
23 BEFORE SUBMITTING TO THE INTERVIEW; AND

24 (d) ANYTHING THE INDIVIDUAL SAYS MAY BE USED AGAINST HIM
25 OR HER IN SUBSEQUENT PROCEEDINGS, INCLUDING IN A FEDERAL
26 IMMIGRATION COURT.

27 (3) THE WRITTEN ADVISEMENT DESCRIBED IN SUBSECTION (2) OF

1 THIS SECTION MUST BE PROVIDED TO THE INMATE AGAIN WHEN THE
2 INMATE IS RELEASED.

3 **24-76.6-105. Civil immigration detainers and requests for**
4 **voluntary notification.** (1) **Purpose.** THE PURPOSE OF THIS SECTION IS
5 TO ADDRESS REQUESTS FOR NONMANDATORY CIVIL IMMIGRATION
6 DETAINERS, VOLUNTARY NOTIFICATION FOR RELEASE OF INDIVIDUALS
7 FROM CUSTODY, TRANSMISSION OF PERSONAL INFORMATION, AND OTHER
8 CIVIL IMMIGRATION DOCUMENTS BASED SOLELY ON ALLEGED VIOLATIONS
9 OF THE CIVIL IMMIGRATION LAWS. NOTHING IN THIS SECTION MAY BE
10 CONSTRUED TO APPLY TO THE AUTHORITY OF LAW ENFORCEMENT
11 OFFICERS TO INVESTIGATE OR ENFORCE ANY CRIMINAL LAW.

12 (2) **Detainers and other civil enforcement actions.** A LAW
13 ENFORCEMENT OFFICER SHALL NOT ARREST OR DETAIN AN INDIVIDUAL, OR
14 PROVIDE ANY INDIVIDUAL'S PERSONAL INFORMATION TO FEDERAL
15 IMMIGRATION ENFORCEMENT AUTHORITIES, ON THE BASIS OF A CIVIL
16 IMMIGRATION DETAINER, AN ADMINISTRATIVE WARRANT, A FINAL ORDER
17 OF REMOVAL OR DEPORTATION, ANY PRIOR DEPORTATION ORDER, ANY
18 OTHER CIVIL IMMIGRATION DOCUMENT BASED SOLELY ON ALLEGED
19 VIOLATIONS OF THE CIVIL IMMIGRATION LAWS, OR ANY COMBINATION OF
20 THESE DOCUMENTS. NOTHING IN THIS SUBSECTION (2) PRECLUDES ANY
21 EMPLOYEE FROM COOPERATING OR ASSISTING FEDERAL IMMIGRATION
22 ENFORCEMENT AUTHORITIES IN THE EXECUTION OF A WARRANT ISSUED BY
23 A FEDERAL JUDGE OR MAGISTRATE.

24 **SECTION 3. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.