

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0208.02 Michael Dohr x4347

HOUSE BILL 19-1124

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government
State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE AUTHORITY OF CRIMINAL**
102 **JUSTICE OFFICIALS WITH RESPECT TO THE ENFORCEMENT OF**
103 **CERTAIN FEDERAL CIVIL LAWS.**

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

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.*

HOUSE
Amended 2nd Reading
April 22, 2019

immigration enforcement authorities in the execution of a warrant issued 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) The federal government does not have the authority to
5 command state or local officials to enforce or administer a federal
6 regulatory program, as doing so would violate the tenth amendment of the
7 United States constitution; and

8 (b) Colorado has the right to be free from mandates or financial
9 obligations to perform the duties of the federal government, or to be
10 threatened or coerced to do so by withholding federal funding; and

11 (c) Any requirement that public safety agencies play a role in
12 enforcing federal civil immigration laws can undermine public trust; and

13 (d) Coloradans have constitutional rights to due process and
14 protection against unlawful detainment and seizures; and

15 (e) The Colorado judicial system serves as a vital forum for
16 ensuring access to justice that is secured by section 6 of article II of the

1 state constitution; and

2 (f) In times of crisis, Colorado courts are the main points of
3 contact for the most vulnerable, including crime victims, victims of
4 sexual abuse and domestic violence, witnesses to crimes who are aiding
5 law enforcement, limited English speakers, unrepresented litigants, and
6 children and families, who seek justice and due process of law.

7 (2) Therefore, it is necessary to adopt this act to promote public
8 safety, the protection of civil liberties, and to further the preservation of
9 the peace, health, and safety of Colorado.

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

12 **ARTICLE 76.6**

13 **Prioritizing State Enforcement of**

14 **Civil Immigration Law**

15 **24-76.6-101. Definitions.** AS USED IN THIS ARTICLE 76.6, UNLESS
16 THE CONTEXT OTHERWISE REQUIRES:

17 (1) "CIVIL IMMIGRATION DETAINER" MEANS A WRITTEN REQUEST
18 ISSUED BY FEDERAL IMMIGRATION ENFORCEMENT AUTHORITIES PURSUANT
19 TO 8 CFR 287.7 TO LAW ENFORCEMENT OFFICERS TO MAINTAIN CUSTODY
20 OF AN INDIVIDUAL BEYOND THE TIME WHEN THE INDIVIDUAL IS ELIGIBLE
21 FOR RELEASE FROM CUSTODY, INCLUDING ANY REQUEST FOR LAW
22 ENFORCEMENT AGENCY ACTION, WARRANT FOR ARREST OF ALIEN, ORDER
23 TO DETAIN OR RELEASE ALIEN, OR WARRANT OF REMOVAL/DEPORTATION
24 ON ANY FORM PROMULGATED BY FEDERAL IMMIGRATION ENFORCEMENT
25 AUTHORITIES.

26 (2) "ELIGIBLE FOR RELEASE FROM CUSTODY" MEANS THAT AN
27 INDIVIDUAL MAY BE RELEASED FROM CUSTODY BECAUSE ONE OF THE

1 FOLLOWING CONDITIONS HAS OCCURRED:

2 (a) ALL CRIMINAL CHARGES AGAINST THE INDIVIDUAL HAVE BEEN
3 DROPPED OR DISMISSED;

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

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

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

10 (e) THE INDIVIDUAL HAS BEEN REFERRED TO PRETRIAL DIVERSION
11 SERVICES; OR

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

14 (3) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER
15 EMPLOYED BY THE COLORADO STATE PATROL, A MUNICIPAL POLICE
16 DEPARTMENT, A TOWN MARSHAL'S OFFICE, OR A COUNTY SHERIFF'S
17 OFFICE.

18 (4) "PERSONAL INFORMATION" MEANS ANY CONFIDENTIAL
19 IDENTIFYING INFORMATION ABOUT AN INDIVIDUAL, INCLUDING BUT NOT
20 LIMITED TO HOME OR WORK CONTACT INFORMATION; FAMILY OR
21 EMERGENCY CONTACT INFORMATION; PROBATION MEETING DATE AND
22 TIME; COMMUNITY CORRECTIONS LOCATIONS; COMMUNITY CORRECTIONS
23 MEETING DATE AND TIME; OR THE MEETING DATE AND TIME FOR CRIMINAL
24 COURT-ORDERED CLASSES, TREATMENT, AND APPOINTMENTS.

25 **24-76.6-102. Civil immigration detainees - legislative**
26 **declaration. (1) Legislative declaration.** THE GENERAL ASSEMBLY FINDS
27 AND DECLARES THAT:

1 (a) FEDERAL IMMIGRATION AUTHORITIES AT TIMES SUBMIT
2 REQUESTS TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO DETAIN
3 AN INMATE AFTER THE INMATE IS ELIGIBLE FOR RELEASE FROM CUSTODY.
4 CONTINUED DETENTION OF AN INMATE UNDER A FEDERAL CIVIL
5 IMMIGRATION DETAINER CONSTITUTES A NEW ARREST UNDER STATE LAW
6 AND A SEIZURE UNDER THE FOURTH AMENDMENT OF THE UNITED STATES
7 CONSTITUTION.

8 (b) REQUESTS FOR CIVIL IMMIGRATION DETAINERS ARE NOT
9 WARRANTS UNDER COLORADO LAW. A WARRANT IS A WRITTEN ORDER BY
10 A JUDGE DIRECTED TO A LAW ENFORCEMENT OFFICER COMMANDING THE
11 ARREST OF THE PERSON NAMED, AS DEFINED IN SECTION 16-1-104 (18).
12 NONE OF THE CIVIL IMMIGRATION DETAINER REQUESTS RECEIVED FROM
13 THE FEDERAL IMMIGRATION AUTHORITIES ARE REVIEWED, APPROVED, OR
14 SIGNED BY A JUDGE AS REQUIRED BY COLORADO LAW. THE CONTINUED
15 DETENTION OF AN INMATE AT THE REQUEST OF FEDERAL IMMIGRATION
16 AUTHORITIES BEYOND WHEN HE OR SHE WOULD OTHERWISE BE RELEASED
17 CONSTITUTES A WARRANTLESS ARREST, WHICH IS UNCONSTITUTIONAL,
18 *PEOPLE V. BURNS*, 615 P.2d 686, 688 (COLO. 1980).

19 (2) A LAW ENFORCEMENT OFFICER SHALL NOT ARREST OR DETAIN
20 AN INDIVIDUAL ON THE BASIS OF A CIVIL IMMIGRATION DETAINER
21 REQUEST.

22 (3) THE AUTHORITY OF LAW ENFORCEMENT IS LIMITED TO THE
23 EXPRESS AUTHORITY GRANTED IN STATE LAW.

24 (4) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT
25 OFFICER OR EMPLOYEE FROM COOPERATING OR ASSISTING FEDERAL
26 IMMIGRATION ENFORCEMENT AUTHORITIES IN THE EXECUTION OF A
27 WARRANT ISSUED BY A FEDERAL JUDGE OR MAGISTRATE OR HONORING

1 ANY WRIT ISSUED BY ANY STATE OR FEDERAL JUDGE CONCERNING THE
2 TRANSFER OF A PRISONER TO OR FROM FEDERAL CUSTODY.

3 (5) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT
4 OFFICER FROM INVESTIGATING OR ENFORCING ANY CRIMINAL LAW OR
5 FROM PARTICIPATING IN COORDINATED LAW ENFORCEMENT ACTIONS WITH
6 FEDERAL LAW ENFORCEMENT AGENCIES IN THE ENFORCEMENT OF LOCAL,
7 STATE, OR FEDERAL CRIMINAL LAWS.

8 **24-76.6-103. Limitations on providing personal information**
9 **by probation offices.** (1) A PROBATION OFFICER OR PROBATION
10 DEPARTMENT EMPLOYEE SHALL NOT PROVIDE PERSONAL INFORMATION
11 ABOUT AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES.

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

21 (a) THE INTERVIEW IS BEING SOUGHT BY FEDERAL IMMIGRATION
22 AUTHORITIES;

23 (b) THE INDIVIDUAL HAS THE RIGHT TO DECLINE THE INTERVIEW
24 AND REMAIN SILENT;

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

27 (d) ANYTHING THE INDIVIDUAL SAYS MAY BE USED AGAINST HIM

1 OR HER IN SUBSEQUENT PROCEEDINGS, INCLUDING IN A FEDERAL
2 IMMIGRATION COURT.

3 (3) THE WRITTEN ADVISEMENT DESCRIBED IN SUBSECTION (2) OF
4 THIS SECTION MUST BE PROVIDED TO THE INMATE AGAIN WHEN THE
5 INMATE IS RELEASED.

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