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# A BILL FOR AN ACT

RELATING TO IMMIGRATION DETAINERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1       SECTION 1. Chapter 706, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4       "§706- Standards for imposing detentions pursuant to  
5 federal immigration holds. (1) A law enforcement official  
6 shall have discretion to cooperate with federal immigration  
7 officials by detaining an individual on the basis of an  
8 immigration hold after the individual becomes eligible for  
9 release from custody only if the continued detention of the  
10 individual on the basis of the immigration hold would not  
11 violate any federal, state, or local law and only under any of  
12 the following circumstances:

13       (a) The individual has been convicted of any felony;

14       (b) The individual has been convicted within the past five  
15 years of any misdemeanor specified in section 706-  
16 606.5(4); or

17       (c) The individual is currently registered as a covered  
18 offender under chapter 846E.



1        (2) Unless the conditions specified in subsection (1) are  
2 satisfied, an individual shall not be detained on the basis of  
3 an immigration hold after the individual becomes eligible for  
4 release from custody.

5        (3) For the purposes of this section:

6        "Agency" means any unit of the State or any of its  
7 political subdivisions.

8        "Eligible for release from custody" means that the  
9 individual may be released from custody because any of the  
10 following conditions has occurred:

11        (a) The individual has been acquitted of the offense for  
12 which the individual has been held in custody;

13        (b) The individual has completed the term of imprisonment  
14 imposed as part of the individual's sentence; or

15        (c) The individual is otherwise eligible for release by  
16 law.

17        "Immigration hold" means an immigration detainer issued by  
18 an authorized immigration officer pursuant to section 287.7 of  
19 Title 8 of the Code of Federal Regulations requesting a law  
20 enforcement official to maintain custody of an individual and to  
21 notify the authorized immigration officer prior to the release  
22 of the individual.



1       "Law enforcement official" means any agency or officer of  
2 an agency authorized to enforce criminal laws, operate  
3 correctional facilities, or maintain custody of individuals in  
4 correctional facilities, and any person or agency authorized to  
5 operate juvenile detention facilities or to maintain custody of  
6 individuals in juvenile detention facilities."

7       SECTION 2. Chapter 803, Hawaii Revised Statutes, is  
8 amended by adding a new section to Part I to be appropriately  
9 designated and to read as follows:

10       "§803-     Standards for imposing detentions pursuant to  
11 federal immigration holds. (a) A law enforcement official  
12 shall have discretion to cooperate with federal immigration  
13 officials by detaining an individual on the basis of an  
14 immigration hold after the individual becomes eligible for  
15 release from custody only if the continued detention of the  
16 individual on the basis of the immigration hold would not  
17 violate any federal, state, or local law and only under any of  
18 the following circumstances:

19       (1) The individual has been convicted of any felony;

20       (2) The individual has been convicted within the past five  
21 years of any misdemeanor specified in section 706-

22       606.5(4);



1       (3) The individual is currently registered as a covered  
2       offender under chapter 846E; or

3       (4) The individual is arrested and taken before a court on  
4       a charge involving any of the offenses identified in  
5       paragraphs (1) and (2) and the court makes a finding  
6       of probable cause as to the charge.

7       (b) Unless the conditions specified in subsection (a) are  
8       satisfied, an individual shall not be detained on the basis of  
9       an immigration hold after the individual becomes eligible for  
10      release from custody.

11      (c) For the purposes of this section:

12      "Agency" means any unit of the State or any of its  
13      political subdivisions.

14      "Eligible for release from custody" means that the  
15      individual may be released from custody because any of the  
16      following conditions has occurred:

17      (1) The criminal charges against the individual for which  
18      the individual is being detained have been withdrawn  
19      or dismissed;

20      (2) The individual has been acquitted of the offense for  
21      which the individual has been held in custody;

22      (3) The individual has posted a bond; or



(4) The individual is otherwise eligible for release by law.

"Immigration hold" means an immigration detainer issued by an authorized immigration officer pursuant to section 287.7 of Title 8 of the Code of Federal Regulations requesting a law enforcement official to maintain custody of an individual and to notify the authorized immigration officer prior to the release of the individual.

"Law enforcement official" means any agency or officer of an agency authorized to enforce criminal laws, operate correctional facilities, or maintain custody of individuals in correctional facilities, and any person or agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

*T. Stale*

JAN - 8 2014



# H.B. NO. 1486

**Report Title:**

Law Enforcement; Criminal Custody; Immigration and Customs  
Detainers

**Description:**

Prohibits law enforcement from continuing custody of an individual on the basis of a United States Immigration and Customs Enforcement detainer after the individual becomes eligible for release unless the individual has been convicted of specified crimes or a court has found probable cause as to a charge concerning a specified crime.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

