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# A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS PROTECTIONS.

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

1           SECTION 1. The legislature finds that according to the  
2 American Immigration Council, Hawaii is home to 254,300  
3 immigrants, including 50,500 undocumented immigrants. The State  
4 is proud of its rich immigrant heritage, which has woven many  
5 people into a valued tapestry of races, ancestral groups,  
6 religions, cultures, and languages from many parts of the world.  
7           The legislature further finds that Hawaii is proud of its  
8 strong civil rights record. Article I, section 5, of the Hawaii  
9 State Constitution states that no person shall be denied the  
10 equal protection of the laws, nor be denied the enjoyment of the  
11 person's civil rights or be discriminated against in the  
12 exercise thereof because of race, religion, sex, or ancestry.  
13 While immigration is a federal function, state and local  
14 agencies have significant discretion regarding whether and how  
15 to respond to requests for assistance from federal immigration  
16 enforcement. The enforcement of immigration law is carried out  
17 by Immigration and Customs Enforcement and Customs and Border



1 Protection, which are agencies of the Department of Homeland  
2 Security. Federal law does not require state and local entities  
3 to collect or share information with the federal immigration  
4 agencies. Rather, federal law limits state and local  
5 governments from restricting communication with federal  
6 immigration authorities concerning information regarding the  
7 citizenship or immigration status, lawful or unlawful, of any  
8 individual. There is no affirmative duty for state and local  
9 governments to collect or share this information, and there is  
10 no prohibition against preventing the communication of other  
11 non-public information.

12 The legislature further finds it is essential to ensure  
13 that immigrants and migrants in the custody of state and local  
14 law enforcement are provided appropriate due process and civil  
15 rights protections.

16 Accordingly, the purpose of this Act is to require state  
17 and local law enforcement agencies to notify an individual of  
18 their rights when in Hawaii law enforcement agency custody  
19 before any interview with United States Immigration and Customs  
20 Enforcement on certain matters regarding civil immigration  
21 violations.



1 SECTION 2. Chapter 353C, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§353C- Due process; immigration matters. (a) Before  
5 any interview between a person in custody of a law enforcement  
6 agency and the United States Immigration and Customs Enforcement  
7 regarding immigration violations, the law enforcement agency  
8 shall provide a written consent form that is available in the  
9 languages for which the office of language access provides  
10 translations; provided that other accommodations shall be made  
11 for individuals who speak languages for which the office of  
12 language access cannot provide translations. The written  
13 consent form shall:

14 (1) Explain the purpose of the interview;

15 (2) State that the interview is voluntary; and

16 (3) Inform the person that they may have their attorney  
17 present for the interview.

18 (b) Upon receiving a hold, notification, or transfer  
19 request of an individual from the United States Immigration and  
20 Customs Enforcement, the law enforcement agency shall provide a  
21 copy of the request to the person in custody and inform the



1 person whether the law enforcement agency intends to comply with  
2 the request. If a law enforcement agency provides United States  
3 Immigration and Customs Enforcement with notification that the  
4 person in custody will be released on a certain date, the law  
5 enforcement agency shall provide the same notification in  
6 writing to the person in custody, the person's attorney, and one  
7 additional person designated by the person in custody within two  
8 business days.

9 (c) Records relating to the United States Immigration and  
10 Customs Enforcement's access to a detained individual provided  
11 by a law enforcement agency, including all communication, shall  
12 be public record. Records shall include:

13 (1) Data maintained by the law enforcement agency  
14 regarding the number and demographic characteristics  
15 of individuals to whom the agency has provided United  
16 States Immigration and Customs Enforcement access;  
17 provided that demographic information shall not be  
18 publicly disclosed if there is a reasonable likelihood  
19 that such information would identify an individual to  
20 whom Immigration and Customs Enforcement has been  
21 provided access;



1       (2) The date access was provided; and

2       (3) Whether the access was provided through a hold,  
3       transfer, notification request, or other means.

4       (d) The department shall hold at least two community  
5       forums to provide information to the public about United States  
6       Immigration and Customs Enforcement's access to individuals in  
7       the department's custody and to receive and consider public  
8       comment.

9       (e) As used in this section, "law enforcement agency"  
10       means any county police department, the department of law  
11       enforcement, and any state or county public body that employs  
12       law enforcement officers."

13       SECTION 3. New statutory material is underscored.

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



**Report Title:**

Immigration; Department of Law Enforcement; Due Process

**Description:**

Requires state and local law enforcement agencies to notify an individual of their rights when in law enforcement agency custody before any interview with United States Immigration and Customs Enforcement on certain matters regarding immigration violations. (HD1)

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