

JAN 17 2025

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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, the State is home to approximately
3 two hundred fifty-four thousand immigrants, including fifty
4 thousand five hundred undocumented immigrants. The legislature
5 further finds that the State is justifiably proud of its rich
6 immigrant heritage, which has woven many residents into a valued
7 tapestry of races, ancestral groups, religions, cultures, and
8 languages from many parts of the world.

9 The legislature further finds that the State is also proud
10 of its strong civil rights record. Article I, section 5, of the
11 Hawaii State Constitution affirmatively states that no person
12 shall be denied the equal protection of the laws, nor be denied
13 enjoyment of the person's civil rights or be discriminated
14 against in the exercise thereof because of race or ancestry.

15 While immigration is a federal responsibility, state and
16 local agencies have significant discretion regarding whether and
17 how to respond to requests for assistance from federal



1 immigration enforcement. The enforcement of immigration law is
2 carried out by the United States Immigration and Customs
3 Enforcement or United States Customs and Border Protection, both
4 of which are agencies of the Department of Homeland Security.
5 Federal law does not require state and local entities to collect
6 or share information with the United States Immigration and
7 Customs Enforcement and United States Customs and Border
8 Protection. Rather, federal law, under title 8 United States
9 Code section 1373, limits state and local governments from
10 restricting communication with federal immigration authorities
11 concerning information regarding the citizenship or immigration
12 status, lawful or unlawful, of any individual. There is no
13 affirmative duty for state and local governments to collect or
14 share this information, and there is no prohibition against
15 preventing the communication of other non-public information.

16 The legislature further finds that because the State is
17 home to residents of diverse ethnic, racial, and national
18 backgrounds, including immigrants who are valuable and important
19 members of local communities, and because of the State's strong
20 due process and civil rights protections for all, it is
21 essential to ensure that immigrants and migrants in state and



1 local law enforcement custody are provided due process and civil
2 rights protections.

3 Accordingly, the purpose of this Act is to:

4 (1) Require state and local law enforcement agencies to
5 notify an individual of their rights when in state or
6 local law enforcement agency custody before any
7 interview with the United States Immigration and
8 Customs Enforcement pertaining to certain matters
9 regarding civil immigration violations;

10 (2) Designate all records relating to United States
11 Immigration and Customs Enforcement access to a
12 detained individual provided by a state or local law
13 enforcement agency as public records under chapter
14 92F, Hawaii Revised Statutes; and

15 (3) Require state and local law enforcement agencies that
16 have provided the United States Immigration and
17 Customs Enforcement access to a detained individual
18 within the previous year to hold two public forums per
19 year.



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- Immigration; due process and transparency;
5 requirements. (a) Before any interview between United States
6 Immigration and Customs Enforcement and an individual in law
7 enforcement agency custody regarding civil immigration
8 violations, the law enforcement agency shall provide the
9 individual with a written consent form that explains the purpose
10 of the interview, that the interview is voluntary, and that the
11 individual may decline to be interviewed or may choose to be
12 interviewed only with the individual's attorney present.

13 The written consent form shall be provided at no cost and
14 shall be available in the languages that the office of language
15 access provides translations for, including but not limited to:

- 16 (1) Chinese Mandarin or Cantonese;
17 (2) Chuukese;
18 (3) English;
19 (4) Ilokano;
20 (5) Japanese;
21 (6) Korean;



1 (7) Spanish;

2 (8) Tagalog;

3 (9) Thai;

4 (10) Vietnamese; and

5 (11) Visayan.

6 (b) Upon receiving any United States Immigration and
7 Customs Enforcement immigration hold, notification, or transfer
8 request, a law enforcement agency shall provide a copy of the
9 request to the individual and inform the individual whether the
10 law enforcement agency intends to comply with the request. If a
11 law enforcement agency provides the United States Immigration
12 and Customs Enforcement with notification that an individual is
13 being, or will be, released on a certain date, the law
14 enforcement agency shall promptly provide within two business
15 days the same notification in writing to the individual and the
16 individual's attorney or to one additional person who the
17 individual shall be permitted to designate.

18 (c) All records relating to United States Immigration and
19 Customs Enforcement access to a detained individual provided by
20 a law enforcement agency, including all communication with
21 United States Immigration and Customs Enforcement, shall be



1 public records for purposes of chapter 92F, including the
2 exemptions provided by chapter 92F; provided that personal
3 identifying information shall be redacted before public
4 disclosure. Records relating to United states Immigration and
5 Customs Enforcement access to a detained individual include but
6 shall not be limited to:

7 (1) Data maintained by the law enforcement agency
8 regarding the number and demographic characteristics
9 of any individual to whom the agency has provided the
10 United States Immigration and Customs Enforcement
11 access;

12 (2) The date the United States Immigration and Customs
13 Enforcement was provided the records; and

14 (3) Whether the United States Immigration and Customs
15 Enforcement access was provided through an immigration
16 hold, transfer, or notification request, or other
17 means.

18 (d) The local governing body of a law enforcement agency
19 that has provided the United States Immigrations and Customs
20 Enforcement access to a detained individual during the previous
21 year shall hold at least two community forums during the



1 following year. The community forums shall be subject to the
2 requirements of chapter 92 and shall provide information to the
3 public about United States Immigration and Customs Enforcement
4 access to detained individuals and to receive and consider
5 public comment. As part of the forums, the law enforcement
6 agency shall provide the governing body with:

7 (1) Data it maintains regarding the number and demographic
8 characteristics of detained individuals to whom the
9 agency has provided the United States Immigration and
10 Customs Enforcement access;

11 (2) The date the United States Immigration and Customs
12 Enforcement was provided the access; and

13 (3) Whether the United States Immigration and Customs
14 Enforcement was provided access through an immigration
15 hold, transfer, or notification request, or other
16 means.

17 The law enforcement agency shall provide the information to
18 the governing body in the form of statistics; provided that if
19 statistics are not maintained, then the law enforcement agency
20 shall provide the governing body with individual records;



1 provided further that the law enforcement agency shall redact
2 any personally identifiable information.

3 (e) For the purposes of this section:

4 "Immigration hold" means an immigration detainer issued
5 pursuant to title 8 Code of Federal Regulations section 287.7,
6 or any similar request from the United States Immigration and
7 Customs Enforcement or United States Customs and Border
8 Protection for detention of an individual suspected of violating
9 civil immigration law.

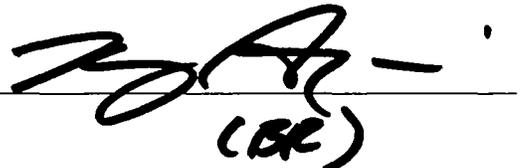
10 "Law enforcement agency" means any agency of the State or
11 any of its political subdivisions, or any officer of those
12 agencies, which is authorized to enforce criminal laws, operate
13 correctional facilities, or maintain custody of individuals in
14 correctional facilities, and any individual or agency authorized
15 to operate detention facilities or to maintain custody of
16 individuals in juvenile detention facilities."

17 SECTION 3. New statutory material is underscored.

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

19

INTRODUCED BY:


(OR)



Report Title:

Law Enforcement; Immigration; Access to Detained Individuals;
Due Process

Description:

Requires state and local law enforcement agencies to notify an individual of their rights when in state or local law enforcement agency custody before any interview with the United States Immigration and Customs Enforcement pertaining to certain matters regarding civil immigration violations. Designates all records relating to United States Immigration and Customs Enforcement access to detained individuals provided by a state or local law enforcement agency as public records under chapter 92F, HRS. Requires state and local law enforcement agencies that have provided the United States Immigration and Customs Enforcement access to a detained individual within the previous year to hold two public forums per year.

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