

JAN 17 2025

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# 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 while immigration is a  
10 federal responsibility, state and local agencies have  
11 significant discretion regarding whether and how to respond to  
12 requests for assistance from federal immigration enforcement.  
13 The enforcement of immigration law is carried out by the United  
14 States Immigration and Customs Enforcement and United States  
15 Customs and Border Protection, both of which are agencies of the  
16 Department of Homeland Security. Federal law does not require  
17 state and local entities to collect or share information with



1 the United States Immigration and Customs Enforcement or United  
2 States Customs and Border Protection. Rather, federal law,  
3 under title 8 United States Code section 1373, limits state and  
4 local governments from restricting communication with federal  
5 immigration authorities concerning information regarding the  
6 citizenship or immigration status, lawful or unlawful, of any  
7 individual. There is no affirmative duty for state and local  
8 governments to collect or share this information, and there is  
9 no prohibition against preventing the communication of other  
10 non-public information.

11 The legislature further finds that the federal government  
12 should not shift the financial burden of federal civil  
13 immigration enforcement, including personnel time and costs  
14 relating to notification and detention, onto local law  
15 enforcement by requesting that local law enforcement agencies  
16 continue detaining persons based on non-mandatory civil  
17 immigration detainers or cooperating and assisting with requests  
18 to notify United States Immigration and Customs Enforcement that  
19 a person will be released from local custody. The legislature  
20 believes that it is not a wise and effective use of valuable and



1 limited state and local resources at a time when vital services  
2 are overburdened.

3       The legislature further finds that civil immigration  
4 detainers are issued by immigration officers without judicial  
5 oversight, and the federal regulation authorizing civil  
6 immigration detainers provides no minimum standard of proof for  
7 their issuance, leading to questions as to their  
8 constitutionality. Unlike criminal warrants, which must be  
9 supported by probable cause and issued by judges, there are no  
10 similar requirements for the issuance of a civil immigration  
11 detainer. Several federal courts have ruled that because civil  
12 immigration detainers and other United States Immigration and  
13 Customs Enforcement notice of action documents are issued  
14 without probable cause of criminal conduct, they do not meet the  
15 Fourth Amendment requirements for state or local law  
16 enforcements to arrest and hold an individual in custody.  
17 Complying with non-mandatory civil immigration detainers  
18 frequently raises due process concerns.

19       The legislature further finds that because the State is  
20 home to residents of diverse ethnic, racial, and national  
21 backgrounds, including immigrants who are valuable and important



1 members of their communities, it is essential to the public  
2 safety of all residents that there is a relationship of trust  
3 and cooperation among all members of the community, including  
4 immigrants, migrants, and the local law enforcement community.  
5 This relationship, essential to "community policing", is  
6 undermined when local law enforcement agencies voluntarily act  
7 at the request of a federal immigration official to enforce  
8 federal immigration laws.

9       Accordingly, the purpose of this Act is to prohibit state  
10 and local law enforcement agencies to collaborate with the  
11 federal government for immigration purposes except for in  
12 limited, specific circumstances.

13       SECTION 2. Chapter 353C, Hawaii Revised Statutes, is  
14 amended by adding two new sections to be appropriately  
15 designated and to read as follows:

16       "§353C-A Honoring detainer requests; prohibition. (a) No  
17 law enforcement agency shall comply with a civil immigration  
18 detainer from the United States Immigration and Customs  
19 Enforcement or United States Customs and Border Protection to  
20 detain or transfer an individual for immigration enforcement or  
21 investigation purposes; provided that the law enforcement agency



1 may respond affirmatively if the detainer request is accompanied  
2 by a judicial warrant.

3 (b) No law enforcement agency shall enter into a formal or  
4 informal agreement with the United States Immigration and  
5 Customs Enforcement, United States Customs and Border  
6 Protection, or other federal immigration authority relating to  
7 the detention of a person being detained for immigration  
8 enforcement or investigation purposes.

9 (c) No law enforcement agency shall use agency moneys,  
10 equipment, or personnel for the purpose of detecting or  
11 apprehending persons for the purpose of enforcing federal  
12 immigration laws.

13 (d) This section shall not prohibit any political  
14 subdivision from establishing more stringent standards and  
15 protections.

16 (e) For the purposes of this section:

17 "Civil immigration detainer" means an immigration detainer  
18 issued pursuant to title 8 Code of Federal Regulations section  
19 287.7 or any similar request from the United States Immigration  
20 and Customs Enforcement or United States Customs and Border



1 Protection for detention of an individual suspected of violating  
2 civil immigration law.

3 "Judicial warrant" means a warrant based on probable cause  
4 and issued by a federal judge or federal magistrate judge  
5 appointed under Article III of the United States Constitution  
6 who authorizes federal immigration authorities to take into  
7 custody the individual who is the subject of the warrant;  
8 provided that "judicial warrant" shall not include a civil  
9 immigration warrant, administrative warrant, or other document  
10 signed only by the United States Immigration and Customs  
11 Enforcement or United States Customs and Border Protection.

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

19 §353C-B Requests for information from immigration  
20 authority; prohibition; exceptions. (a) No law enforcement  
21 agency shall comply with a United States Immigration and Customs



1 Enforcement or United States Customs and Border Protection  
2 request for non-public information about an individual,  
3 including but not limited to information about an individual's  
4 release, home address, or work address, except as authorized by  
5 this section; provided that a law enforcement agency may comply  
6 with an information request if the request is accompanied by a  
7 judicial warrant.

8       **(b)** A law enforcement agency shall limit the information  
9 collected from an individual concerning immigration or  
10 citizenship status to that necessary to perform agency duties.

11       **(c)** Nothing in this section shall prohibit a law  
12 enforcement agency from:

13       **(1)** Sharing and receiving from any local, state, or  
14 federal agency information regarding an individual's  
15 country of citizenship or a statement of the  
16 individual's immigration status pursuant to title 8  
17 United States Code section 1373; or

18       **(2)** Disclosing information where disclosure of that  
19 information is otherwise required by state law or  
20 pursuant to subpoena or court order.



1        (d) This section shall not prohibit any political  
2 subdivision from establishing more stringent standards and  
3 protections.

4        (e) For the purposes of this section:  
5        "Judicial warrant" has the same meaning as defined in  
6 section 353C-A.

7        "Law enforcement agency" has the same meaning as defined in  
8 section 353C-A."

9        SECTION 3. In codifying the new sections added by  
10 section 2 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 the new sections in this Act.

13        SECTION 4. New statutory material is underscored.

14        SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 



# S.B. NO. 775

**Report Title:**

Immigration; Law Enforcement; Cooperation; Prohibition;  
Exceptions

**Description:**

Prohibits state and local law enforcement agencies to collaborate with the federal government for immigration purposes except for in limited, specific circumstances.

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

