
A BILL FOR AN ACT

RELATING TO IMMIGRATION.

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
3 258,800 immigrants, including 29,900 undocumented immigrants.
4 The legislature further finds that the State is justifiably
5 proud of its rich immigrant heritage, which has woven many
6 residents into a valued tapestry of races, ancestral groups,
7 religions, cultures, and languages from many parts of the world.

8 The legislature further finds that the State is also proud
9 of its strong civil rights record. Article I, section 5, of the
10 Hawaii State Constitution affirmatively states that no person
11 shall be denied the equal protection of the laws or the
12 enjoyment of the person's civil rights or be discriminated
13 against in the exercise of these rights because of race or
14 ancestry.

15 The legislature notes that while immigration is a federal
16 responsibility, state and local agencies have significant
17 discretion regarding whether and how to respond to requests for



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

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



1 essential to ensure that immigrants and migrants in state and
2 county law enforcement custody are provided due process and
3 civil rights protections.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Require state and county law enforcement agencies to
6 notify an individual in the custody of a state or
7 local law enforcement agency of their rights before
8 any civil immigration interview with the United States
9 Immigration and Customs Enforcement pertaining to
10 certain matters regarding civil immigration violations
11 can commence;
- 12 (2) Designate all records relating to United States
13 Immigration and Customs Enforcement access to a
14 detained individual provided by a state or county law
15 enforcement agency as public records; and
- 16 (3) Require state and county law enforcement agencies that
17 have provided the United States Immigration and
18 Customs Enforcement access to a detained individual
19 within the previous year to hold two public forums per
20 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; civil immigration interviews; due
5 process and transparency; requirements. (a) Before any civil
6 immigration interview between United States Immigration and
7 Customs Enforcement and an individual in law enforcement agency
8 custody regarding civil immigration violations may commence, the
9 law enforcement agency shall provide the individual with a
10 written consent form that:

11 (1) Explains:

12 (A) The purpose of the interview, if known by the law
13 enforcement agency;

14 (B) The interview is voluntary; and

15 (C) The individual may either:

16 (i) Decline to be interviewed; or

17 (ii) Choose to be interviewed only with the
18 individual's attorney present; and

19 (2) Clearly provides a space for the individual to
20 indicate that they:

21 (A) Consent to the interview;



1 (B) Consent to the interview with the individual's
2 attorney present; or

3 (C) Do not consent to the interview.

4 (b) The written consent form required under subsection (a)
5 shall be provided at no cost and shall be available in the
6 languages that the office of language access provides
7 translations for, including but not limited to:

8 (1) Chinese Mandarin or Cantonese;

9 (2) Chuukese;

10 (3) English;

11 (4) Ilokano;

12 (5) Japanese;

13 (6) Korean;

14 (7) Olelo Hawaii;

15 (8) Marshallese;

16 (9) Samoan;

17 (10) Spanish;

18 (11) Tagalog;

19 (12) Thai;

20 (13) Vietnamese; and

21 (14) Visayan;



1 provided that other accommodations shall be made for individuals
2 who speak languages that the office of language access cannot
3 provide translation.

4 The law enforcement agency shall provide the individual,
5 the individual's attorney, or the individual's designated
6 representative with a copy of the signed written consent form
7 and retain a copy of each written consent form.

8 (c) Upon request, a law enforcement agency shall provide
9 reasonable phone access and a reasonable opportunity to consult
10 with an individual's attorney before any civil immigration
11 interview.

12 (d) Law enforcement agencies shall log each civil
13 immigration interview request, including the following:

- 14 (1) Date and time of the civil immigration interview
15 request;
- 16 (2) Whether the written consent form under subsection (a)
17 was provided to the individual;
- 18 (3) The language used in the written consent form;
- 19 (4) Whether consent was given to a civil immigration
20 interview;



1 (5) If consent was given, whether counsel was present at
2 the interview; and

3 (6) If consent was given, the date and time of the civil
4 immigration interview.

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

17 (f) All records relating to United States Immigration and
18 Customs Enforcement access to a detained individual provided by
19 a law enforcement agency, including all communication with
20 United States Immigration and Customs Enforcement, shall be
21 public records for purposes of chapter 92F, and the exemptions



1 provided in chapter 92F shall apply; provided that personal
2 identifying information shall be redacted before public
3 disclosure. Records relating to United States Immigration and
4 Customs Enforcement access to a detained individual shall
5 include but not be limited to:

6 (1) Logs maintained by the law enforcement agency pursuant
7 to subsection (d);

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

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

14 (g) Each law enforcement agency shall provide de-
15 identified copies of the records maintained pursuant to
16 subsection (f) to the department of the attorney general on a
17 quarterly basis. The attorney general shall submit a report to
18 the legislature no later than twenty days prior to the convening
19 of each regular session that summarizes the requests for access
20 to a detained individual by the United States Immigration and



1 Customs Enforcement and the outcomes of those requests,
2 aggregated by county.

3 (h) The director, if a state law enforcement agency, or
4 chief of police, if a county law enforcement agency, that has
5 provided the United States Immigration and Customs Enforcement
6 access to a detained individual during the previous year shall
7 hold at least two community forums during the following year.
8 The community forums shall be subject to the requirements of
9 chapter 92 and shall provide information to the public about
10 United States Immigration and Customs Enforcement access to
11 detained individuals and offer an opportunity to receive and
12 consider public comment. As part of the forums, the law
13 enforcement agency shall provide the director or chief of police
14 with:

15 (1) Data it maintains regarding the number and demographic
16 characteristics of detained individuals to whom the
17 law enforcement agency has provided the United States
18 Immigration and Customs Enforcement access;

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



1 (3) Whether the United States Immigration and Customs
2 Enforcement was provided access through an immigration
3 hold, transfer, or notification request, or other
4 means.

5 The law enforcement agency shall provide the information
6 under paragraphs (1) to (3) to the director or chief of police
7 in the form of statistics; provided that if statistics are not
8 maintained, then the law enforcement agency shall provide the
9 director or chief of police with individual records; provided
10 further that the law enforcement agency shall redact any
11 personally identifiable information.

12 (i) No later than December 31, 2026, the department of the
13 attorney general shall develop and publish consent forms that
14 meet the requirements of subsection (a) and model policies
15 addressing requests from the United States Immigration and
16 Customs Enforcement for access to a detained individual for law
17 enforcement agencies to adopt.

18 (j) The department of the attorney general, the county
19 prosecuting attorneys, or an agency with separate enforcement
20 authority may receive and investigate complaints of violations
21 of this section and issue findings and corrective orders.



1 (k) Any person who is or was in custody and aggrieved by a
2 violation of this section may bring an action seeking injunctive
3 or declaratory relief and reasonable attorney's fees against a
4 law enforcement agency that has violated the requirements of
5 subsection (a) or (b).

6 (l) For the purposes of this section:

7 "Civil immigration interview" means any interview by
8 federal immigration authorities concerning civil immigration
9 matters of a person in the custody of a law enforcement agency.

10 "Director" means director of law enforcement.

11 "Immigration hold" means an immigration detainer issued
12 pursuant to title 8 Code of Federal Regulations section 287.7,
13 or any similar request from the United States Immigration and
14 Customs Enforcement or United States Customs and Border
15 Protection for detention of an individual suspected of violating
16 civil immigration law.

17 "Law enforcement agency" means any agency of the State or
18 any of its political subdivisions, or any officer of those
19 agencies, which is authorized to enforce criminal laws, operate
20 correctional facilities or detention facilities, or maintain
21 custody of individuals in correctional or detention facilities,



1 and any individual or agency authorized to operate detention
2 facilities or to maintain custody of individuals in juvenile
3 detention facilities. "Law enforcement agency" does not include
4 any federal agency or its political subdivisions, or any officer
5 of those agencies, that is authorized to enforce criminal laws,
6 operate correctional facilities, or maintain custody of
7 individuals in correctional facilities, and any individual or
8 agency authorized to operate detention facilities or to maintain
9 custody of individuals in juvenile detention facilities."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Immigration; Law Enforcement Agencies; Access to Detained Individuals; Civil Immigration Interviews; Due Process; Public Forums

Description:

Requires state and county law enforcement agencies to notify an individual in the custody of a state or county law enforcement agency of their rights before any interview with the United States Immigration and Customs Enforcement pertaining to certain matters regarding civil immigration violations can commence. 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. Requires state and county 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. Effective 7/1/3000. (HD1)

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