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# 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, Hawaii 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 is reflected in a  
6 valued tapestry of races, ancestral groups, religions, cultures,  
7 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 federal  
3 immigration authorities, including the United States Immigration  
4 and Customs Enforcement and United States Customs and Border  
5 Protection, both of which are agencies of the Department of  
6 Homeland Security. Federal law does not require state and local  
7 entities to collect or share information with the United States  
8 Immigration and Customs Enforcement and United States Customs  
9 and Border Protection. Rather, federal law, under title 8  
10 United States Code section 1373, limits state and local  
11 governments from restricting communication with federal  
12 immigration authorities concerning information regarding the  
13 citizenship or immigration status, lawful or unlawful, of any  
14 individual. There is no affirmative duty for state and local  
15 governments to collect or share this information, and there is  
16 no prohibition against preventing the communication of other  
17 non-public information.

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



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

5 Accordingly, the purpose of this Act is to:

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

11 (1) Explains:

12 (A) The rights afforded under the Fifth Amendment of  
13 the United States Constitution, including the  
14 right to remain silent and the right to an  
15 attorney;

16 (B) The purpose of the interview, if known by the law  
17 enforcement agency;

18 (C) The interview is voluntary; and

19 (D) The individual may either:

20 (i) Decline to be interviewed; or



- 1                   (ii) Choose to be interviewed only with the  
2                                 individual's attorney present; and
- 3       (2) Clearly provides a space for the individual to  
4                 indicate that they:
- 5                 (A) Consent to the interview;
- 6                 (B) Consent to the interview with the individual's  
7                                 attorney present; or
- 8                 (C) Do not consent to the interview.
- 9       (b) The written consent form required under subsection (a)  
10 shall be provided at no cost and shall be available in the  
11 languages that the office of language access provides  
12 translations for, including but not limited to:
- 13       (1) Chinese Mandarin or Cantonese;
- 14       (2) Chuukese;
- 15       (3) English;
- 16       (4) Ilokano;
- 17       (5) Japanese;
- 18       (6) Korean;
- 19       (7) Olelo Hawaii;
- 20       (8) Marshallese;
- 21       (9) Samoan;



- 1        (10) Spanish;  
2        (11) Tagalog;  
3        (12) Thai;  
4        (13) Vietnamese; and  
5        (14) Visayan;

6        provided that other accommodations shall be made for individuals  
7        who speak languages that the office of language access cannot  
8        provide translation.

9        The law enforcement agency shall provide the individual,  
10       the individual's attorney, or the individual's designated  
11       representative with a copy of the signed written consent form  
12       and retain a copy of each written consent form.

13       (c) Upon request, a law enforcement agency shall provide  
14       the individual with reasonable access to a telephone and a  
15       reasonable opportunity to consult with the individual's attorney  
16       before any civil immigration interview; provided that juveniles  
17       in law enforcement agency custody shall also have a reasonable  
18       opportunity to contact a parent, guardian, or legal custodian.

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



- 1        (1) Date and time of the civil immigration interview  
2        request;
- 3        (2) Whether the written consent form under subsection (a).  
4        was provided to the individual;
- 5        (3) The language used in the written consent form;
- 6        (4) Whether consent was given to a civil immigration  
7        interview;
- 8        (5) If consent was given, whether counsel was present at  
9        the interview; and
- 10       (6) If consent was given, the date and time of the civil  
11       immigration interview.
- 12       (e) Upon receiving any immigration hold, notification, or  
13 transfer request from a federal immigration authority, a law  
14 enforcement agency shall provide a copy of the request to the  
15 individual and inform the individual whether the law enforcement  
16 agency intends to comply with the request. If a law enforcement  
17 agency provides a federal immigration authority with  
18 notification that an individual is being, or will be, released  
19 on a certain date, the law enforcement agency shall promptly  
20 provide the same notification in writing within two business



1 days to the individual and the individual's attorney or the  
2 individual's designated representative.

3 (f) All records relating to a federal immigration  
4 authority's access to a detained individual provided by a law  
5 enforcement agency, including all communication with the federal  
6 immigration authority, shall be public records for purposes of  
7 chapter 92F, and the exemptions provided in chapter 92F shall  
8 not apply; provided that personal identifying information of a  
9 detained individual shall be redacted before public disclosure  
10 pursuant to section 92F-13(1). Records relating to federal  
11 immigration authority access to a detained individual shall  
12 include but not be limited to:

13 (1) Logs maintained by the law enforcement agency pursuant  
14 to subsection (d);

15 (2) The date the federal immigration authority was  
16 provided the access; and

17 (3) Whether the federal immigration authority's access was  
18 provided through an immigration hold, notification  
19 request, or transfer, or other means.

20 (g) Each law enforcement agency shall provide de-  
21 identified copies of the records maintained pursuant to



1 subsection (f) to the department of the attorney general on a  
 2 quarterly basis. The attorney general shall submit a report to  
 3 the legislature no later than twenty days prior to the convening  
 4 of each regular session that summarizes the requests for access  
 5 to detained individuals by federal immigration authorities and  
 6 the outcomes of those requests, aggregated by county.

7 (h) The director, if a state law enforcement agency, or  
 8 chief of police, if a county law enforcement agency, that has  
 9 provided the federal immigration authorities access to a  
 10 detained individual during the previous year shall hold at least  
 11 two community forums during the following year. The community  
 12 forums shall be open to the public and shall provide information  
 13 to the public about federal immigration authorities' access to  
 14 detained individuals and offer an opportunity to receive and  
 15 consider public comment. As part of the forums, the law  
 16 enforcement agency shall provide the director or chief of police  
 17 with:

18 (1) Data it maintains regarding the number and demographic  
 19 characteristics of detained individuals to whom the  
 20 law enforcement agency has provided federal  
 21 immigration authorities access;



1       (2) The date the federal immigration authority was  
2       provided the access; and

3       (3) Whether the federal immigration authority was provided  
4       access through an immigration hold, notification  
5       request, or transfer, or other means.

6       The law enforcement agency shall provide the information  
7       under paragraphs (1) to (3) to the director or chief of police  
8       in the form of statistics; provided that if statistics are not  
9       maintained, then the law enforcement agency shall provide the  
10       director or chief of police with individual records; provided  
11       further that personal identifying information of a detained  
12       individual shall be redacted.

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

19       (j) The department of the attorney general, the county  
20       prosecuting attorneys, or an agency with separate enforcement



1 authority may receive and investigate complaints of violations  
2 of this section and issue findings and corrective orders.

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

8 (l) For the purposes of this section:

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

12 "Federal immigration authority" means the United States  
13 Immigration and Customs Enforcement, the United States Customs  
14 and Border Protection, or any other federal agency or component  
15 authorized to conduct civil immigration enforcement or  
16 interviews under federal law.

17 "Immigration hold" means an immigration detainer issued  
18 pursuant to title 8 Code of Federal Regulations section 287.7,  
19 or any similar request from federal immigration authorities for  
20 detention of an individual suspected of violating civil  
21 immigration law.



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

9       SECTION 3. New statutory material is underscored.

10       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 federal immigration authorities pertaining to certain matters regarding civil immigration violations can commence. Designates all records relating to federal immigration authorities 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 federal immigration authorities access to a detained individual within the previous year to hold two public forums per year. Effective 7/1/3000.  
(HD2)

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