

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 19-0208.02 Michael Dohr x4347

**HOUSE BILL 19-1124**

**HOUSE SPONSORSHIP**

**Benavidez and Lontine,** Buckner, Caraveo, Coleman, Duran, Galindo, Gonzales-Gutierrez, Hooton, Melton, Arndt, Becker, Esgar, Herod, Jackson, Jaquez Lewis, Mullica, Singer, Sirota, Tipper, Valdez A., Weissman

**SENATE SPONSORSHIP**

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**House Committees**

Transportation & Local Government  
State, Veterans, & Military Affairs  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING CLARIFICATION OF THE AUTHORITY OF CRIMINAL**  
102 **JUSTICE OFFICIALS WITH RESPECT TO THE ENFORCEMENT OF**  
103 **CERTAIN FEDERAL CIVIL LAWS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill prohibits a department, agency, board, commission, or officer or employee of the state or a political subdivision of the state from using public funds or resources to assist in the enforcement of federal civil immigration laws. The bill allows a state employee or employee of a political subdivision of the state to cooperate or assist federal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
May 3, 2019

SENATE  
2nd Reading Unamended  
May 2, 2019

HOUSE  
3rd Reading Unamended  
April 23, 2019

HOUSE  
Amended 2nd Reading  
April 22, 2019

immigration enforcement authorities in the execution of a warrant issued by a federal judge or magistrate or honoring any writ issued by any state or federal judge concerning the transfer of a prisoner to or from federal custody.

The bill prohibits the state or a political subdivision of the state from entering into any contractual agreement that would require an employee to directly or indirectly assist in the enforcement of federal civil immigration laws.

The bill prohibits federal immigration authorities access to the secure areas of any city or county jail or other law enforcement facility for the purpose of conducting investigative interviews or for any other purpose related to the enforcement of federal civil immigration laws unless federal immigration authorities present a warrant issued by a federal judge or magistrate.

The bill prohibits a law enforcement officer from arresting or detaining an individual solely on the basis of a civil immigration detainer.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) The federal government does not have the authority to  
5 command state or local officials to enforce or administer a federal  
6 regulatory program, as doing so would violate the tenth amendment of the  
7 United States constitution; and

8 (b) Colorado has the right to be free from mandates or financial  
9 obligations to perform the duties of the federal government, or to be  
10 threatened or coerced to do so by withholding federal funding; and

11 (c) Any requirement that public safety agencies play a role in  
12 enforcing federal civil immigration laws can undermine public trust; and

13 (d) Coloradans have constitutional rights to due process and  
14 protection against unlawful detainment and seizures; and

15 (e) The Colorado judicial system serves as a vital forum for  
16 ensuring access to justice that is secured by section 6 of article II of the

1 state constitution; and

2 (f) In times of crisis, Colorado courts are the main points of  
3 contact for the most vulnerable, including crime victims, victims of  
4 sexual abuse and domestic violence, witnesses to crimes who are aiding  
5 law enforcement, limited English speakers, unrepresented litigants, and  
6 children and families, who seek justice and due process of law.

7 (2) Therefore, it is necessary to adopt this act to promote public  
8 safety, the protection of civil liberties, and to further the preservation of  
9 the peace, health, and safety of Colorado.

10 **SECTION 2.** In Colorado Revised Statutes, **add** article 76.6 to  
11 title 24 as follows:

12 **ARTICLE 76.6**

13 **Prioritizing State Enforcement of**

14 **Civil Immigration Law**

15 **24-76.6-101. Definitions.** AS USED IN THIS ARTICLE 76.6, UNLESS  
16 THE CONTEXT OTHERWISE REQUIRES:

17 (1) "CIVIL IMMIGRATION DETAINER" MEANS A WRITTEN REQUEST  
18 ISSUED BY FEDERAL IMMIGRATION ENFORCEMENT AUTHORITIES PURSUANT  
19 TO 8 CFR 287.7 TO LAW ENFORCEMENT OFFICERS TO MAINTAIN CUSTODY  
20 OF AN INDIVIDUAL BEYOND THE TIME WHEN THE INDIVIDUAL IS ELIGIBLE  
21 FOR RELEASE FROM CUSTODY, INCLUDING ANY REQUEST FOR LAW  
22 ENFORCEMENT AGENCY ACTION, WARRANT FOR ARREST OF ALIEN, ORDER  
23 TO DETAIN OR RELEASE ALIEN, OR WARRANT OF REMOVAL/DEPORTATION  
24 ON ANY FORM PROMULGATED BY FEDERAL IMMIGRATION ENFORCEMENT  
25 AUTHORITIES.

26 (2) "ELIGIBLE FOR RELEASE FROM CUSTODY" MEANS THAT AN  
27 INDIVIDUAL MAY BE RELEASED FROM CUSTODY BECAUSE ONE OF THE

1 FOLLOWING CONDITIONS HAS OCCURRED:

2 (a) ALL CRIMINAL CHARGES AGAINST THE INDIVIDUAL HAVE BEEN  
3 DROPPED OR DISMISSED;

4 (b) THE INDIVIDUAL HAS BEEN ACQUITTED OF ALL CRIMINAL  
5 CHARGES FILED AGAINST HIM OR HER;

6 (c) THE INDIVIDUAL HAS SERVED ALL THE TIME REQUIRED FOR HIS  
7 OR HER SENTENCE;

8 (d) THE INDIVIDUAL HAS POSTED A BOND OR HAS BEEN RELEASED  
9 ON HIS OR HER OWN RECOGNIZANCE;

10 (e) THE INDIVIDUAL HAS BEEN REFERRED TO PRETRIAL DIVERSION  
11 SERVICES; OR

12 (f) THE INDIVIDUAL IS OTHERWISE ELIGIBLE FOR RELEASE UNDER  
13 STATE OR MUNICIPAL LAW.

14 (3) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER  
15 EMPLOYED BY THE COLORADO STATE PATROL, A MUNICIPAL POLICE  
16 DEPARTMENT, A TOWN MARSHAL'S OFFICE, OR A COUNTY SHERIFF'S  
17 OFFICE.

18 (4) "PERSONAL INFORMATION" MEANS ANY CONFIDENTIAL  
19 IDENTIFYING INFORMATION ABOUT AN INDIVIDUAL, INCLUDING BUT NOT  
20 LIMITED TO HOME OR WORK CONTACT INFORMATION; FAMILY OR  
21 EMERGENCY CONTACT INFORMATION; PROBATION MEETING DATE AND  
22 TIME; COMMUNITY CORRECTIONS LOCATIONS; COMMUNITY CORRECTIONS  
23 MEETING DATE AND TIME; OR THE MEETING DATE AND TIME FOR CRIMINAL  
24 COURT-ORDERED CLASSES, TREATMENT, AND APPOINTMENTS.

25 **24-76.6-102. Civil immigration detainees - legislative**  
26 **declaration. (1) Legislative declaration.** THE GENERAL ASSEMBLY FINDS  
27 AND DECLARES THAT:

1 (a) FEDERAL IMMIGRATION AUTHORITIES AT TIMES SUBMIT  
2 REQUESTS TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO DETAIN  
3 AN INMATE AFTER THE INMATE IS ELIGIBLE FOR RELEASE FROM CUSTODY.  
4 CONTINUED DETENTION OF AN INMATE UNDER A FEDERAL CIVIL  
5 IMMIGRATION DETAINER CONSTITUTES A NEW ARREST UNDER STATE LAW  
6 AND A SEIZURE UNDER THE FOURTH AMENDMENT OF THE UNITED STATES  
7 CONSTITUTION.

8 (b) REQUESTS FOR CIVIL IMMIGRATION DETAINERS ARE NOT  
9 WARRANTS UNDER COLORADO LAW. A WARRANT IS A WRITTEN ORDER BY  
10 A JUDGE DIRECTED TO A LAW ENFORCEMENT OFFICER COMMANDING THE  
11 ARREST OF THE PERSON NAMED, AS DEFINED IN SECTION 16-1-104 (18).  
12 NONE OF THE CIVIL IMMIGRATION DETAINER REQUESTS RECEIVED FROM  
13 THE FEDERAL IMMIGRATION AUTHORITIES ARE REVIEWED, APPROVED, OR  
14 SIGNED BY A JUDGE AS REQUIRED BY COLORADO LAW. THE CONTINUED  
15 DETENTION OF AN INMATE AT THE REQUEST OF FEDERAL IMMIGRATION  
16 AUTHORITIES BEYOND WHEN HE OR SHE WOULD OTHERWISE BE RELEASED  
17 CONSTITUTES A WARRANTLESS ARREST, WHICH IS UNCONSTITUTIONAL,  
18 *PEOPLE V. BURNS*, 615 P.2d 686, 688 (COLO. 1980).

19 (2) A LAW ENFORCEMENT OFFICER SHALL NOT ARREST OR DETAIN  
20 AN INDIVIDUAL ON THE BASIS OF A CIVIL IMMIGRATION DETAINER  
21 REQUEST.

22 (3) THE AUTHORITY OF LAW ENFORCEMENT IS LIMITED TO THE  
23 EXPRESS AUTHORITY GRANTED IN STATE LAW.

24 (4) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT  
25 OFFICER OR EMPLOYEE FROM COOPERATING OR ASSISTING FEDERAL  
26 IMMIGRATION ENFORCEMENT AUTHORITIES IN THE EXECUTION OF A  
27 WARRANT ISSUED BY A FEDERAL JUDGE OR MAGISTRATE OR HONORING

1 ANY WRIT ISSUED BY ANY STATE OR FEDERAL JUDGE CONCERNING THE  
2 TRANSFER OF A PRISONER TO OR FROM FEDERAL CUSTODY.

3 (5) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT  
4 OFFICER FROM INVESTIGATING OR ENFORCING ANY CRIMINAL LAW OR  
5 FROM PARTICIPATING IN COORDINATED LAW ENFORCEMENT ACTIONS WITH  
6 FEDERAL LAW ENFORCEMENT AGENCIES IN THE ENFORCEMENT OF LOCAL,  
7 STATE, OR FEDERAL CRIMINAL LAWS.

8 **24-76.6-103. Limitations on providing personal information**  
9 **by probation offices.** (1) A PROBATION OFFICER OR PROBATION  
10 DEPARTMENT EMPLOYEE SHALL NOT PROVIDE PERSONAL INFORMATION  
11 ABOUT AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES.

12 (2) NOTHING IN SECTION 24-76.6-102 PREVENTS LAW  
13 ENFORCEMENT OFFICERS FROM COORDINATING TELEPHONE OR VIDEO  
14 INTERVIEWS BETWEEN FEDERAL IMMIGRATION AUTHORITIES AND  
15 INDIVIDUALS INCARCERATED IN ANY COUNTY OR LOCAL JAIL OR OTHER  
16 CUSTODIAL FACILITY, TO THE SAME EXTENT AS TELEPHONE OR VIDEO  
17 CONTACT WITH SUCH INDIVIDUALS IS ALLOWED BY THE GENERAL PUBLIC,  
18 IF THE INDIVIDUAL HAS BEEN ADVISED, IN THE INDIVIDUAL'S LANGUAGE OF  
19 CHOICE, OF CERTAIN INFORMATION IN WRITING, INCLUDING BUT NOT  
20 LIMITED TO:

21 (a) THE INTERVIEW IS BEING SOUGHT BY FEDERAL IMMIGRATION  
22 AUTHORITIES;

23 (b) THE INDIVIDUAL HAS THE RIGHT TO DECLINE THE INTERVIEW  
24 AND REMAIN SILENT;

25 (c) THE INDIVIDUAL HAS THE RIGHT TO SPEAK TO AN ATTORNEY  
26 BEFORE SUBMITTING TO THE INTERVIEW; AND

27 (d) ANYTHING THE INDIVIDUAL SAYS MAY BE USED AGAINST HIM

1 OR HER IN SUBSEQUENT PROCEEDINGS, INCLUDING IN A FEDERAL  
2 IMMIGRATION COURT.

3 (3) THE WRITTEN ADVISEMENT DESCRIBED IN SUBSECTION (2) OF  
4 THIS SECTION MUST BE PROVIDED TO THE INMATE AGAIN WHEN THE  
5 INMATE IS RELEASED.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.