

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0208.02 Michael Dohr x4347

**HOUSE BILL 19-1124**

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**HOUSE SPONSORSHIP**

**Benavidez and Lontine,** Buckner, Caraveo, Coleman, Duran, Galindo, Gonzales-Gutierrez, Hooton, Melton

**SENATE SPONSORSHIP**

**(None),**

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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.

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 DEPARTMENT.

18 (4) "NONPUBLIC AREA" MEANS ANY AREA OF THE FACILITY THAT  
19 IS NOT GENERALLY OPEN AND ACCESSIBLE TO THE GENERAL PUBLIC BUT  
20 INSTEAD REQUIRES SPECIAL PERMISSION FOR ADMITTANCE BY A LAW  
21 ENFORCEMENT OFFICER OR FACILITY EMPLOYEE ON AN INDIVIDUAL BASIS.

22 (5) "PERSONAL INFORMATION" MEANS ANY CONFIDENTIAL  
23 IDENTIFYING INFORMATION ABOUT AN INDIVIDUAL, INCLUDING BUT NOT  
24 LIMITED TO HOME OR WORK CONTACT INFORMATION; FAMILY OR  
25 EMERGENCY CONTACT INFORMATION; PROBATION MEETING DATE AND  
26 TIME; COMMUNITY CORRECTIONS LOCATIONS; COMMUNITY CORRECTIONS  
27 MEETING DATE AND TIME; OR THE MEETING DATE AND TIME FOR CRIMINAL

1 COURT-ORDERED CLASSES, TREATMENT, AND APPOINTMENTS.

2 **24-76.6-102. Civil immigration detainees - legislative**  
3 **declaration. (1) Legislative declaration.** THE GENERAL ASSEMBLY FINDS  
4 AND DECLARES THAT:

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

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

23 (2) A LAW ENFORCEMENT OFFICER SHALL NOT ARREST OR DETAIN  
24 AN INDIVIDUAL ON THE BASIS OF A CIVIL IMMIGRATION DETAINER  
25 REQUEST.

26 (3) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT  
27 OFFICER OR EMPLOYEE FROM COOPERATING OR ASSISTING FEDERAL

1 IMMIGRATION ENFORCEMENT AUTHORITIES IN THE EXECUTION OF A  
2 WARRANT ISSUED BY A FEDERAL JUDGE OR MAGISTRATE OR HONORING  
3 ANY WRIT ISSUED BY ANY STATE OR FEDERAL JUDGE CONCERNING THE  
4 TRANSFER OF A PRISONER TO OR FROM FEDERAL CUSTODY.

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

10 **24-76.6-103. Limitations on access to nonpublic areas of jails**

11 **and related facilities.** (1) (a) A LAW ENFORCEMENT OFFICER, OR OTHER  
12 STATE, COUNTY, OR LOCAL EMPLOYEE, SHALL NOT GRANT FEDERAL  
13 IMMIGRATION AUTHORITIES ACCESS TO OR USE OF THE NONPUBLIC AREAS  
14 OF ANY COUNTY OR LOCAL JAIL, CUSTODIAL FACILITY, OR OTHER LAW  
15 ENFORCEMENT FACILITY FOR THE PURPOSE OF CONDUCTING  
16 INVESTIGATIVE INTERVIEWS OR FOR ANY OTHER PURPOSE RELATED TO THE  
17 ENFORCEMENT OF CIVIL IMMIGRATION LAWS UNLESS FEDERAL  
18 IMMIGRATION AUTHORITIES PRESENT A WARRANT, WRIT, OR OTHER COURT  
19 ORDER ISSUED BY A FEDERAL JUDGE OR MAGISTRATE.

20 (b) A PROBATION OFFICER OR PROBATION DEPARTMENT EMPLOYEE  
21 SHALL NOT PROVIDE PERSONAL INFORMATION ABOUT AN INDIVIDUAL TO  
22 FEDERAL IMMIGRATION AUTHORITIES OR GRANT ACCESS TO OR THE USE OF  
23 THE NONPUBLIC AREAS OF A PROBATION OFFICE FOR THE PURPOSE OF  
24 CONDUCTING INVESTIGATIVE INTERVIEWS OR FOR ANY OTHER PURPOSE  
25 RELATED TO THE ENFORCEMENT OF CIVIL IMMIGRATION LAWS UNLESS  
26 FEDERAL IMMIGRATION AUTHORITIES PRESENT A WARRANT, WRIT, OR  
27 OTHER COURT ORDER ISSUED BY A FEDERAL JUDGE OR MAGISTRATE.

1 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION OR IN SECTION  
2 24-76.6-102 PREVENTS LAW ENFORCEMENT OFFICERS FROM  
3 COORDINATING TELEPHONE OR VIDEO INTERVIEWS BETWEEN FEDERAL  
4 IMMIGRATION AUTHORITIES AND INDIVIDUALS INCARCERATED IN ANY  
5 COUNTY OR LOCAL JAIL OR OTHER CUSTODIAL FACILITY, TO THE SAME  
6 EXTENT AS TELEPHONE OR VIDEO CONTACT WITH SUCH INDIVIDUALS IS  
7 ALLOWED BY THE GENERAL PUBLIC, IF THE INDIVIDUAL HAS BEEN ADVISED,  
8 IN THE INDIVIDUAL'S LANGUAGE OF CHOICE, OF CERTAIN INFORMATION IN  
9 WRITING, INCLUDING BUT NOT LIMITED TO:

10 (a) THE INTERVIEW IS BEING SOUGHT BY FEDERAL IMMIGRATION  
11 AUTHORITIES;

12 (b) THE INDIVIDUAL HAS THE RIGHT TO DECLINE THE INTERVIEW  
13 AND REMAIN SILENT;

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

16 (d) ANYTHING THE INDIVIDUAL SAYS MAY BE USED AGAINST HIM  
17 OR HER IN SUBSEQUENT PROCEEDINGS, INCLUDING IN A FEDERAL  
18 IMMIGRATION COURT.

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

22 **24-76.6-104. Contracts related to enforcement of federal civil**  
23 **immigration laws prohibited.** THE STATE OR A POLITICAL SUBDIVISION  
24 OF THE STATE SHALL NOT ENTER INTO A CONTRACTUAL AGREEMENT,  
25 INCLUDING ANY SUBCONTRACTS, THAT WOULD REQUIRE AN EMPLOYEE TO  
26 DIRECTLY OR INDIRECTLY ASSIST IN THE ENFORCEMENT OF CIVIL  
27 IMMIGRATION LAWS, SPECIFICALLY ANY AGREEMENT AUTHORIZED BY 8

1 U.S.C. SEC. 1357 (g), REFERRED TO AS A "287g AGREEMENT". THE  
2 GENERAL ASSEMBLY FINDS THIS PROHIBITION IS NECESSARY BECAUSE  
3 SUCH AGREEMENTS DEPUTIZE LAW ENFORCEMENT OFFICERS TO ENFORCE  
4 FEDERAL IMMIGRATION LAW TO THE EXTENT CONSISTENT WITH STATE AND  
5 LOCAL LAW. COLORADO LAW EXPRESSLY LIMITS THE POWER OF SHERIFFS  
6 TO ENFORCING CRIMINAL LAW, MAKING ARRESTS FOR VIOLATIONS OF  
7 CRIMINAL LAW, AND HOUSING PRISONERS FOR VIOLATIONS OF CRIMINAL  
8 LAW. THE AUTHORITY OF SHERIFFS IS LIMITED TO THE EXPRESS AUTHORITY  
9 GRANTED THEM BY THE GENERAL ASSEMBLY, CONSISTENT WITH THE  
10 COLORADO SUPREME COURT OPINIONS IN *PEOPLE V. BUCKALLEW*, 848 P.2d  
11 904 (COLO. 1993) AND *DOUGLASS V. KELTON*, 610 P.2d 1067 (COLO.  
12 1980). THEREFORE, 287g AGREEMENTS ARE NOT CONSISTENT WITH STATE  
13 AND LOCAL LAW.

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