Amendment 81: Law Enforcement Communication with Federal Immigration Authorities

Placed on the ballot by citizen initiative • Passes with 55 percent of the vote

Amendment 81 proposes amending the Colorado Constitution to:

- require state and local law enforcement to make a reasonable effort to determine whether an individual charged with a crime is lawfully present, if the charge is a crime of violence or the individual has a prior felony conviction; and
- notify federal immigration authorities within 72 hours of filing charges if law enforcement cannot determine that the charged individual is lawfully present in the United States.

What Your Vote Means

YES

A "yes" vote on Amendment 81 requires law enforcement to notify federal immigration authorities after filing certain criminal charges against individuals who are not confirmed to be lawfully present.

NO

A "no" vote on Amendment 81 maintains current law, which allows cooperation with federal immigration authorities in some criminal matters, but limits state and local law enforcement involvement in civil immigration enforcement.

Summary and Analysis of Amendment 81

What does the measure do?

Amendment 81 requires certified peace officers employed by a law enforcement agency, correctional officers, and district attorney personnel to notify the federal Department of Homeland Security (DHS) within 72 hours of charging someone with a crime if the charge is a crime of violence or if the individual has a prior felony conviction. The notification requirement applies if the charged individual is not lawfully present in the United States, or if their lawful status cannot be determined.

Which individuals are subject to notification?

The measure applies to an individual charged with, but not yet convicted of, a crime of violence, which are crimes causing serious bodily harm or death to another person, or involving the use of a deadly weapon. This includes crimes such as murder, assault, arson, escape, extortion, kidnapping, aggravated robbery, and certain sexual offenses and human trafficking.

The measure also applies to individuals with any prior felony conviction, regardless of when it occurred, who are charged with any type of crime—including traffic violations, petty offenses, misdemeanors, and felonies.

In all cases, the measure applies once the individual is formally charged with a crime, not at the time of arrest, and before any legal process has determined whether they are guilty or innocent.

What is current law related to communication with federal immigration authorities?

Colorado law currently permits state and local law enforcement to cooperate in the enforcement of federal criminal law, but limits state and local participation in civil immigration enforcement. Among other restrictions, state and local government agencies and employees are prohibited from sharing certain nonpublic personal information with federal immigration authorities, unless directed by federal law, a court order, or a judicial warrant. Employees who violate these prohibitions may be subject to a fine of up to $50,000. However, neither federal nor state law require law enforcement agencies to notify federal immigration authorities when unlawfully present individuals are charged with crimes. State and local authorities do not currently track or publish data on how many unlawfully present individuals are charged with crimes of violence or are charged with any crime after a prior felony conviction.

What authority do local governments have to engage with federal immigration authorities?

Unless prohibited by state law, local governments have the authority to determine their level of cooperation and communication with federal immigration authorities. For example, the City and County of Denver expanded upon state law by prohibiting federal immigration authorities from accessing city-controlled property like courthouses. Conversely, El Paso County requires officers to notify federal immigration authorities if they suspect that an individual in their custody does not have legal status.

Arguments For Amendment 81

1) Violent individuals and repeat offenders residing in the United States unlawfully should be reported to federal immigration authorities for further enforcement action, which could include removal from the country. The measure increases communication and coordination between Colorado law enforcement and federal immigration authorities to identify individuals who may pose a threat to public safety, without targeting those who are otherwise law-abiding and contribute positively to society.

2) The measure creates a new uniform statewide standard for cooperation with federal immigration authorities. Consistent requirements across jurisdictions improve enforcement and reduce variation among local policies, thus improving public safety and allowing the criminal justice system to work efficiently and effectively in removing potential criminals from the country.

Arguments Against Amendment 81

1) The measure undermines the constitutional right to due process and the presumption of innocence by requiring local law enforcement to report individuals to DHS and Immigration and Customs Enforcement (ICE) before a court determines whether the individual committed a crime. Criminal charges are allegations, not findings of guilt, and individuals should not face potentially life-altering immigration consequences, including deportation, before receiving a fair trial. People who are legally present or who are found to not have committed any crime could be swept up in immigration enforcement actions if they are unable to prove their status in the measure's strict 72-hour timeframe.

2) The measure is too broad to be enforced equitably and consistently, which erodes trust between law enforcement and their communities. By failing to define key terms such as "reasonable effort" or "lawful presence," enforcement is left up to the discretion of individual officers, who may rely on subjective characteristics such as language spoken or personal appearance when deciding to review a person's legal status. This breakdown in trust may deter some individuals from reporting crimes, cooperating with investigations, or seeking assistance for fear of subjecting themselves or members of their community to immigration enforcement.

Information about the organizations supporting and opposing this measure is available on the Colorado Secretary of State's website:

www.coloradosos.gov/pubs/elections/Initiatives/ballot/contacts/2026.html

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Fiscal Impact of Amendment 81

State Spending

In state budget year 2026-27, state spending and workload will increase for agencies that employ law enforcement officers. Two departments require system updates: the Department of Revenue requires $50,000 to access federal databases and make programming changes, and the Department of Natural Resources requires $10,000 to update computer systems. The measure does not specify a funding source to pay for these costs and it is assumed that they will be paid from the General Fund. Workload may also increase in these departments, as well as the departments of Higher Education, Human Services, Judicial, Law, and Public Safety, to the extent they are required to determine a charged individual's immigration status and communicate with the federal government on affected cases; however, this work will be primarily conducted by local governments.

Local Government Spending

Local law enforcement agencies, including police, district attorney offices, and Regional Transportation District officers, will have increased workload and potential spending. As with the state, the added workload involves determining a charged individual's immigration status and communicating with the federal government on affected cases. Because this determination happens after charges are filed, most of the workload will fall on district attorney offices. The amount of work will vary by jurisdiction depending on how many individuals are charged there. Spending, if incurred, will be on systems updates.

Initiative 95: Law Enforcement Communication with Federal Immigration Authorities

Placed on the ballot by citizen initiative • Passes with 55 percent of the vote

Initiative 95 proposes amending the Colorado Constitution to:

- require state and local law enforcement to make a reasonable effort to determine whether an individual charged with a crime is lawfully present, if the charge is a crime of violence or the individual has a prior felony conviction; and
- notify federal immigration authorities within 72 hours of filing charges if law enforcement cannot determine that the charged individual is lawfully present in the United States.

What Your Vote Means

YES

A "yes" vote on Initiative 95 requires law enforcement to notify federal immigration authorities after filing certain criminal charges against individuals who are not confirmed to be lawfully present.

NO

A "no" vote on Initiative 95 maintains current law, which allows cooperation with federal immigration authorities in some criminal matters, but limits state and local law enforcement involvement in civil immigration enforcement.

Summary and Analysis of Initiative 95

What does the measure do?

Initiative 95 requires certified peace officers employed by a law enforcement agency, correctional officers, and district attorney personnel to notify the federal Department of Homeland Security (DHS) within 72 hours of charging someone with a crime if the charge is a crime of violence or if the individual has a prior felony conviction. The notification requirement applies if the charged individual is not lawfully present in the U.S., or if their lawful status cannot be determined.

Which individuals are subject to notification?

The measure applies to an individual charged with, but not yet convicted of, a crime of violence, which are crimes causing serious bodily harm or death to another person, or involving the use of a deadly weapon. This includes crimes such as murder, assault, arson, escape, extortion, kidnapping, aggravated robbery, and certain sexual offenses and human trafficking.

The measure also applies to individuals with any prior felony conviction, regardless of when it occurred, who are charged with any type of crime—including felonies, misdemeanors, petty offenses, and traffic violations.

In all cases, the measure applies once the individual is formally charged with a crime, not at the time of arrest, and before any legal process has determined whether they are guilty or innocent.

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Colorado law currently permits state and local law enforcement to cooperate in the enforcement of federal criminal law, but limits state and local participation in civil immigration enforcement. Among other restrictions, state and local government agencies and employees are prohibited from sharing certain nonpublic personal information with federal immigration authorities, unless directed by federal law, a court order, or a judicial warrant. Employees who violate these prohibitions may be subject to a fine of up to $50,000. However, neither federal nor state law require law enforcement agencies to notify federal immigration authorities when unlawfully present individuals are charged with crimes. State and local authorities do not currently track or publish data on how many unlawfully present individuals are charged with crimes of violence or are charged with any crime after a prior felony conviction.

What authority do local governments have to engage with federal immigration authorities?

Unless prohibited by state law, local governments have the authority to determine their level of cooperation and communication with federal immigration authorities. For example, the City and County of Denver expanded upon state law by prohibiting federal immigration authorities from accessing city-controlled property like courthouses. Conversely, El Paso County requires officers to notify federal immigration authorities if they suspect that an individual in their custody does not have legal status.

Arguments For Initiative 95

1) Violent individuals and repeat offenders residing in the U.S. unlawfully should be reported to federal immigration authorities for further enforcement action, which could include removal from the country. The measure increases communication and coordination between Colorado law enforcement and federal immigration authorities to identify individuals who may pose a threat to public safety, without targeting those who are otherwise law-abiding and contribute positively to society.

2) The measure creates a new uniform statewide standard for cooperation with federal immigration authorities. Consistent requirements across jurisdictions improve enforcement and reduce variation among local policies, thus improving public safety and allowing the criminal justice system to work efficiently and effectively in removing potential criminals from the country.

Arguments Against Initiative 95

1) The measure undermines the constitutional right to due process and the presumption of innocence by requiring local law enforcement to report individuals to DHS and Immigration and Customs Enforcement (ICE) before a court determines whether the individual committed a crime. Criminal charges are allegations, not findings of guilt, and individuals should not face potentially life-altering immigration consequences, including deportation, before receiving a fair trial. People who are legally present or who are found to not have committed any crime could be swept up in immigration enforcement actions if they are unable to prove their status in the measure's strict 72-hour timeframe.

2) The measure is too broad to be enforced equitably and consistently, which erodes trust between law enforcement and their communities. By failing to define key terms such as "reasonable effort" or "lawful presence," enforcement is left up to the discretion of individual officers, who may rely on subjective characteristics such as language spoken or personal appearance. This breakdown in trust will deter some individuals from reporting crimes, cooperating with investigations, or seeking assistance for fear of subjecting themselves or members of their community to immigration enforcement.

Information about the organizations supporting and opposing this measure is available on the Colorado Secretary of State's website:

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Fiscal Impact of Initiative 95

State Spending

In state budget year 2026-27, state spending and workload will increase for agencies that employ law enforcement officers. Two departments require system updates: the Department of Revenue requires $50,000 to access federal databases and make programming changes, and the Department of Natural Resources requires $10,000 to update computer systems. The measure does not specify a funding source to pay for these costs and it is assumed that they will be paid from the General Fund. Workload may also increase in these departments, as well as the departments of Higher Education, Human Services, Judicial, Law, and Public Safety, to the extent they are required to determine a charged individual's immigration status and communicate with the federal government on affected cases; however, this work will be primarily conducted by local governments.

Local Government Spending

Local law enforcement agencies, including police, district attorney offices, and Regional Transportation District officers, will have increased workload and potential spending. As with the state, the added workload involves determining a charged individual's immigration status and communicating with the federal government on affected cases. Because this determination

happens after charges are filed, most of the workload will fall on district attorney offices. The amount of work will vary by jurisdiction depending on how many individuals are charged there. Spending, if incurred, will be on systems updates.

Last Draft Comments from Interested Parties

Amendment 81

Law Enforcement Communication with Federal Immigration Authorities

Karen Artell, representing themselves:

Ms. Artell submitted Attachment A.

Michael Fields, representing Advance Colorado:

1. The NO section should say in "federal" criminal matters rather than "some" criminal matters, because the only time law enforcement is currently allowed to cooperate with federal authorities is under a subpoena sought by federal authorities or in federally-run investigation.
2. We disagree that local governments are allowed to notify the federal government about anyone in their custody at will, as state law does prohibit the use of state systems to turn over an individual's name. At least, this section should mention that state law prohibits the use of state data systems in informations sharing with federal authorities.
3. Arguments For should have a higher emphasis on the fact that this measure focuses on violent criminals and previously convicted felons — the most serious offenders rather than just "crimes" or "potential threats."
4. The second Argument Against includes factually inaccurate information. None of this is "left up to the discretion of individual officers" because a *charge* has to take place, not an *arrest*. District attorneys choose who to charge, and that is based on evidence not "language spoken" or "personal appearance." That argument confuses arrest with charges and does not apply. Also, the "breakdown in trust" argument that may lead someone to not report a crime is factually inaccurate, too, as no one who reports a crime is at risk here. This is focused on those who are *charged with committing* a crime, not those involved in reporting it.

Ariane Frosh, representing ACLU Colorado:

Ms. Frosh submitted Attachment B.

Bennett Rutledge, representing themselves:

My argument against Initiative 95: Law Enforcement Communication with Federal Immigration Authorities is: On June 3, 2026 a hearing was held in federal court on the matter of Brian José Morales Garcia. A Colorado birth certificate, hospital records, and a baptismal certificate were presented and the judge is asking for more evidence. Brian remains outside the United States while the government continues to question whether he is who he says he is. Attorney Kate Lincoln-Goldfinch stated "If a U.S. citizen can

present official identity documents and still be forced to provide additional proof, fingerprints, biometrics, or other before being allowed back into their own country, that creates a dangerous precedent for all Americans."

Initiative 95 requires Colorado peace officers assist the Department of Homeland Security to exile almost anyone, just as they did to Denver-born Brian Morales. Vote NO on Initiative 95.

Henry Sandman, representing Colorado Immigrant Rights Coalition (CIRC):

Mr. Sandman submitted Attachment C.

3rd Draft

Initiative 95: Law Enforcement Communication with Federal Immigration Authorities

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- notify federal immigration authorities within 72 hours of filing charges if the person is not lawfully present in the United States or if law enforcement cannot determine that the charged individual is lawfully present in the United States.

What Your Vote Means

YES

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NO

A "no" vote on Initiative 95 maintains current law, which allows cooperation with federal immigration authorities in some criminal matters, but limits state and local law enforcement involvement in civil immigration enforcement.

Summary and Analysis of Initiative 95

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a deadly weapon. This includes crimes such as murder, assault, arson, escape, extortion, kidnapping, aggravated robbery, and certain sexual offenses and human trafficking.

The measure also applies to individuals with any prior felony conviction, regardless of when it occurred, who are charged with any type of crime—including felonies, misdemeanors, petty offenses, and traffic violations.

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Arguments For Initiative 95

1) Violent individuals and repeat offenders residing in the U.S. unlawfully should be reported to federal immigration authorities for further enforcement action, which could include removal from the country. The measure increases communication and coordination between Colorado law enforcement and federal immigration authorities to identify individuals who may pose a threat to public safety, ~~without targeting those who are otherwise law-abiding and contribute positively to society.~~

2) The measure creates a new uniform statewide standard for cooperation with federal immigration authorities. Consistent requirements across jurisdictions improve enforcement and reduce variation among local policies, thus improving public safety and allowing the

Commented [KA1]: This is not a true statement. We know time and again that law-abiding individuals who are contributing positively to society including individuals here legally, children and US citizens are being targeted by DHS/ICE agents, abused, detained for months on end in horrible conditions and murdered with no consequences for the agents. This proposal will only increase this activity.

criminal justice system to work efficiently and effectively in removing potential criminals from the country.

Arguments Against Initiative 95

1) The measure undermines the constitutional right to due process and the presumption of innocence by requiring local law enforcement to report individuals to DHS and Immigration and Customs Enforcement (ICE) before a court determines whether the individual committed a crime. Criminal charges are allegations, not findings of guilt, and individuals should not face potentially life-altering immigration consequences, including deportation, before receiving a fair trial. People who are legally present or who are found to not have committed any crime could be swept up in immigration enforcement actions if they are unable to prove their status in the measure's strict 72-hour timeframe. Removal from the country of persons subject to the measure interferes with or stymies our judicial system from bringing a person charged with a crime to justice and punishment if found guilty.

2) The measure is too broad to be enforced equitably and consistently, which erodes trust between law enforcement and their communities. By failing to define key terms such as "reasonable effort" or "lawful presence," enforcement is left up to the discretion of individual officers, who may rely on subjective characteristics such as language spoken or racial profiling ~~personal appearance~~ . This breakdown in trust will deter some individuals from reporting crimes, cooperating with investigations, or seeking assistance for fear of subjecting themselves or members of their community to immigration enforcement.

Information about the organizations supporting and opposing this measure is available on the Colorado Secretary of State's website:

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Fiscal Impact of Initiative 95

State Spending

In state budget year 2026-27, state spending and workload will increase for agencies that employ law enforcement officers. Two departments require system updates: the Department of Revenue requires $50,000 to access federal databases and make programming changes, and the Department of Natural Resources requires $10,000 to update computer systems. The measure does not specify a funding source to pay for these costs and it is assumed that they will be paid from the General Fund. Workload may also increase in these departments, as well as the departments of Higher Education, Human Services, Judicial, Law, and Public Safety, to the extent they are required to determine a charged individual's immigration status and communicate with the federal government on affected cases; however, this work will be primarily conducted by local governments.

Local Government Spending

Local law enforcement agencies, including police, district attorney offices, and Regional Transportation District officers, will have increased workload and potential spending. As with the state, the added workload involves determining a charged individual's immigration status and communicating with the federal government on affected cases. Because this determination happens after charges are filed, most of the workload will fall on district attorney offices. The amount of work will vary by jurisdiction depending on how many individuals are charged there. Spending, if incurred, will be on systems updates.

ACLU of Colorado: Feedback on Proposed Initiative 95 Blue Book Comment Draft 3

Submitted by: Ariane Frosh, Policy Counsel, ACLU of Colorado
Submitter Email Address: afrosh@aclu-co.org

On page 2, line 2-3, strike "occurred, who are charged with any type of crime—including ~~felonies, misdemeanors,~~ petty offenses~~,~~ and traffic violations."

On page 2, lines 27-29, replace "~~Violent individuals and repeat offenders residing in the U.S. unlawfully should be reported to federal immigration authorities for further enforcement action, which could remove removal from the country~~ INDIVIUDALS RESIDING IN THE U.S. UNLAWFULLY SHOULD NOT BE ALLOWED TO STAY IN THE COUNTRY AFTER COMMITTING VIOLENT OR REPEAT CRIMES."

On page 2, line 36, strike "criminal justice system to work ~~efficiently and effectively~~ in removing potential"

On page 3, line 6, add "face potentially life-altering immigration consequences, including DETENTION AND deportation, before"

On page 3, line 14, add "appearance WHEN REPORTING PEOPLE TO ICE. This breakdown in trust will deter"

ACLU of Colorado appreciates the feedback that LSC has accepted from our previous two submissions. To the extent that LSC did not incorporate our feedback, we continue to urge LSC to consider our prior suggestions, which we believe make the Comment more accurate and true to the text of the proposed amendment.

We'd like, however, to draw LSC's attention to a small handful of changes for the final Blue Book that we believe will further achieve our shared goals of fairness and accuracy. In our previous feedback, we have urged LSC to consider striking the language at page 1, lines 32-33 that enumerate certain examples of crimes of violence. While we continue to have concerns that this language will play on the public's fear, we understand LSC believes that the phrase is important to educate voters. Instead, we suggest striking the reference to "felonies and misdemeanors" in the following sentence. We believe that this second sentence can highlight the alleged minor offenses that would trigger notification to ICE under the proposed amendment, and is a fairer description of the proposed amendment's impact following the list of violent crimes in the preceding sentence.

In our feedback on the second draft of this comment, we suggested changes to language on page 2, lines 27-29 concerning "[v]iolent individuals and repeat offenders." We reiterate our concerns

that such a description improperly assumes that individuals who are merely charged with crimes have, in fact, committed those crimes, and carries a negative judgment about those individuals. While we disagree with the premise of the argument, we understand that LSC intends to present it to voters. Although we also suggested changes to this language in the first draft and remain concerned about the assumptions about individuals who are charged with crimes, we believe that language is a fairer representation of the argument; the first draft described the crimes as "violent or repeat," rather than the people who are charged.

We have also encouraged LSC to reconsider the argument at page 3, lines 35-37 that suggests that it is the role of the state criminal justice system to remove potentially dangerous individuals from the country. Again, while we reiterate our disagreement with such a premise, we understand that LSC intends to submit it to voters. We therefore recommend striking "efficiently and effectively" from this language.

Finally, we appreciate LSC's adoption of feedback to strengthen the arguments against this initiative and suggest two small additions. First, because "deportation" appears for the first time in this draft as an example of "potentially life-altering immigration consequences" at page 3 lines 6-7, we suggest adding "detention" to that list to provide a fuller picture of such consequences. Finally, we think adding "when reporting people to ICE" at the end of the sentence at page 3, lines 11-14 helps the reader understand when individual officers could exercise their discretion.

Again, we thank you for your work to help educate voters on this proposed amendment and appreciate your consideration of our feedback. We remain happy to discuss any of this feedback or our prior feedback.

CIRC Feedback on Proposed Initiative 95 Blue Book Comment Draft 3

Submitted by: Henry Sandman, Co-Executive Director of the Colorado Immigrant Rights Coalition (CIRC)
Email: henry@circaction.org

CIRC appreciates the addition of Immigrations and Customs Enforcement (ICE) into the arguments against Initiative 95. We still think it could be helpful for voters to know what immigration departments are under the Department of Homeland Security in the summary and analysis section for the measure and are suggesting an addition to that section below.

On Page 1, Line 25 ADD “WHICH INCLUDES CUSTOMS AND BORDER PROTECTION (CBP), IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE), AND U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)” after “Department of Homeland Security (DHS)”

Thank you for giving the Colorado Immigrant Rights Coalition the opportunity to provide feedback on the second draft of Blue Book language for the proposed Initiative 95.

We appreciate your consideration of the above changes to the proposed Blue Book language and are happy to discuss or answer any questions about our submission.

Contact List

Amendment 81

Law Enforcement Communication with Federal Immigration Authorities

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Amendment 81

Law Enforcement Communication with Federal Immigration Authorities

Ballot Title: Shall there be an amendment to the Colorado Constitution requiring law enforcement to notify the department of homeland security when a person is charged with either a violent crime or any crime if the person has a prior felony conviction if law enforcement cannot determine that the person is lawfully present in the United States?

Text of Measure:

Be it enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, add section 17 to article XVIII as follows:

Section 17. Notification requirements for felons and violent offenders unlawfully present in the United States

(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "LAW ENFORCEMENT" MEANS:

(a) A CERTIFIED PEACE OFFICER DESCRIBED IN LAW, WHO IS EMPLOYED BY A LAW ENFORCEMENT AGENCY;

(b) A CORRECTIONAL OFFICER; OR

(c) AN ATTORNEY OR INVESTIGATOR WHO IS EMPLOYED BY A DISTRICT ATTORNEY.

(2) **Requirement to notify upon charging.** NOTWITHSTANDING ANY OTHER PROVISION OF COLORADO LAW, LAW ENFORCEMENT SHALL NOTIFY THE FEDERAL DEPARTMENT OF HOMELAND SECURITY WITHIN SEVENTY-TWO HOURS AFTER CHARGING THE PERSON WITH A CRIME IF:

(a) THE PERSON IS NOT LAWFULLY PRESENT IN THE UNITED STATES OR THE STATUS OF THE PERSON'S LAWFUL PRESENCE IS UNKNOWN AFTER A REASONABLE ATTEMPT TO DETERMINE IT HAS BEEN MADE BY LAW ENFORCEMENT; AND

(b) EITHER:

(I) THE PERSON IS CHARGED WITH A CRIME OF VIOLENCE AS DEFINED BY COLORADO STATUTE; OR

(II) THE PERSON HAS BEEN CONVICTED OF A PRIOR FELONY.

(3) Reasonable effort required. LAW ENFORCEMENT HAS A DUTY TO MAKE A REASONABLE EFFORT TO DETERMINE WHETHER A PERSON CHARGED WHO WOULD BE THE SUBJECT OF A NOTIFICATION UNDER THIS SECTION IS LAWFULLY PRESENT IN THE UNITED STATES.