

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

## Committee on State, Veterans, & Military Affairs.

HB19-1124 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

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

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

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

16 (e) The Colorado judicial system serves as a vital forum for

17 ensuring access to justice that is secured by section 6 of article II of the  
18 state constitution; and

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

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

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

## ARTICLE 76.6

## Prioritizing State Enforcement of Civil Immigration Law

32                   **24-76.6-101. Definitions.** AS USED IN THIS ARTICLE 76.6, UNLESS  
33 THE CONTEXT OTHERWISE REQUIRES:

34 (1) "CIVIL IMMIGRATION DETAINER" MEANS A WRITTEN REQUEST  
35 ISSUED BY FEDERAL IMMIGRATION ENFORCEMENT AUTHORITIES PURSUANT  
36 TO 8 CFR 287.7 TO LAW ENFORCEMENT OFFICERS TO MAINTAIN CUSTODY  
37 OF AN INDIVIDUAL BEYOND THE TIME WHEN THE INDIVIDUAL IS ELIGIBLE  
38 FOR RELEASE FROM CUSTODY, INCLUDING ANY REQUEST FOR LAW  
39 ENFORCEMENT AGENCY ACTION, WARRANT FOR ARREST OF ALIEN, ORDER  
40 TO DETAIN OR RELEASE ALIEN, OR WARRANT OF REMOVAL/DEPORTATION

1     ON ANY FORM PROMULGATED BY FEDERAL IMMIGRATION ENFORCEMENT  
2     AUTHORITIES.

3         (2) "ELIGIBLE FOR RELEASE FROM CUSTODY" MEANS THAT AN  
4     INDIVIDUAL MAY BE RELEASED FROM CUSTODY BECAUSE ONE OF THE  
5     FOLLOWING CONDITIONS HAS OCCURRED:

6             (a) ALL CRIMINAL CHARGES AGAINST THE INDIVIDUAL HAVE BEEN  
7     DROPPED OR DISMISSED;

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

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

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

14             (e) THE INDIVIDUAL HAS BEEN REFERRED TO PRETRIAL DIVERSION  
15     SERVICES; OR

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

18         (3) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER  
19     EMPLOYED BY THE COLORADO STATE PATROL, A MUNICIPAL POLICE  
20     DEPARTMENT, A TOWN MARSHAL'S OFFICE, OR A COUNTY SHERIFF'S  
21     DEPARTMENT.

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

26         (5) "PERSONAL INFORMATION" MEANS ANY CONFIDENTIAL  
27     IDENTIFYING INFORMATION ABOUT AN INDIVIDUAL, INCLUDING BUT NOT  
28     LIMITED TO HOME OR WORK CONTACT INFORMATION; FAMILY OR  
29     EMERGENCY CONTACT INFORMATION; PROBATION MEETING DATE AND  
30     TIME; COMMUNITY CORRECTIONS LOCATIONS; COMMUNITY CORRECTIONS  
31     MEETING DATE AND TIME; OR THE MEETING DATE AND TIME FOR CRIMINAL  
32     COURT-ORDERED CLASSES, TREATMENT, AND APPOINTMENTS.

33         **24-76.6-102. Civil immigration detainees - legislative  
34     declaration.** (1) **Legislative declaration.** THE GENERAL ASSEMBLY FINDS  
35     AND DECLARES THAT:

36             (a) FEDERAL IMMIGRATION AUTHORITIES AT TIMES SUBMIT  
37     REQUESTS TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO DETAIN  
38     AN INMATE AFTER THE INMATE IS ELIGIBLE FOR RELEASE FROM CUSTODY.  
39     CONTINUED DETENTION OF AN INMATE UNDER A FEDERAL CIVIL  
40     IMMIGRATION DETAINER CONSTITUTES A NEW ARREST UNDER STATE LAW  
41     AND A SEIZURE UNDER THE FOURTH AMENDMENT OF THE UNITED STATES  
42     CONSTITUTION.

43             (b) REQUESTS FOR CIVIL IMMIGRATION DETAINERS ARE NOT

1 WARRANTS UNDER COLORADO LAW. A WARRANT IS A WRITTEN ORDER BY  
2 A JUDGE DIRECTED TO A LAW ENFORCEMENT OFFICER COMMANDING THE  
3 ARREST OF THE PERSON NAMED, AS DEFINED IN SECTION 16-1-104 (18).  
4 NONE OF THE CIVIL IMMIGRATION DETAINER REQUESTS RECEIVED FROM  
5 THE FEDERAL IMMIGRATION AUTHORITIES ARE REVIEWED, APPROVED, OR  
6 SIGNED BY A JUDGE AS REQUIRED BY COLORADO LAW. THE CONTINUED  
7 DETENTION OF AN INMATE AT THE REQUEST OF FEDERAL IMMIGRATION  
8 AUTHORITIES BEYOND WHEN HE OR SHE WOULD OTHERWISE BE RELEASED  
9 CONSTITUTES A WARRANTLESS ARREST, WHICH IS UNCONSTITUTIONAL,  
10 *PEOPLE v. BURNS*, 615 P.2d 686, 688 (COLO. 1980).

11 (2) A LAW ENFORCEMENT OFFICER SHALL NOT ARREST OR DETAIN  
12 AN INDIVIDUAL, OR PROVIDE ANY INDIVIDUAL'S PERSONAL INFORMATION  
13 TO FEDERAL IMMIGRATION ENFORCEMENT AUTHORITIES, ON THE BASIS OF  
14 A CIVIL IMMIGRATION DETAINER REQUEST.

15 (3) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT  
16 OFFICER OR EMPLOYEE FROM COOPERATING OR ASSISTING FEDERAL  
17 IMMIGRATION ENFORCEMENT AUTHORITIES IN THE EXECUTION OF A  
18 WARRANT ISSUED BY A FEDERAL JUDGE OR MAGISTRATE OR HONORING  
19 ANY WRIT ISSUED BY ANY STATE OR FEDERAL JUDGE CONCERNING THE  
20 TRANSFER OF A PRISONER TO OR FROM FEDERAL CUSTODY.

21 (4) NOTHING IN THIS SECTION PRECLUDES ANY LAW ENFORCEMENT  
22 OFFICER FROM INVESTIGATING OR ENFORCING ANY CRIMINAL LAW OR  
23 FROM PARTICIPATING IN COORDINATED LAW ENFORCEMENT ACTIONS WITH  
24 FEDERAL LAW ENFORCEMENT AGENCIES IN THE ENFORCEMENT OF LOCAL,  
25 STATE, OR FEDERAL CRIMINAL LAWS.

26 **24-76.6-103. Limitations on access to nonpublic areas of jails  
and related facilities.** (1) (a) A LAW ENFORCEMENT OFFICER, OR OTHER  
27 STATE, COUNTY, OR LOCAL EMPLOYEE, SHALL NOT GRANT FEDERAL  
28 IMMIGRATION AUTHORITIES ACCESS TO OR USE OF THE NONPUBLIC AREAS  
29 OF ANY COUNTY OR LOCAL JAIL, CUSTODIAL FACILITY, OR OTHER LAW  
30 ENFORCEMENT FACILITY FOR THE PURPOSE OF CONDUCTING  
31 INVESTIGATIVE INTERVIEWS OR FOR ANY OTHER PURPOSE RELATED TO THE  
32 ENFORCEMENT OF CIVIL IMMIGRATION LAWS UNLESS FEDERAL  
33 IMMIGRATION AUTHORITIES PRESENT A WARRANT, WRIT, OR OTHER COURT  
34 ORDER ISSUED BY A FEDERAL JUDGE OR MAGISTRATE.

35 (b) THE GENERAL ASSEMBLY FINDS THE FOLLOWING PROHIBITION  
36 IS NECESSARY, SINCE IMMIGRATION STATUS IS NOT A CONSIDERATION FOR  
37 SENTENCING. A PROBATION OFFICER OR PROBATION DEPARTMENT  
38 EMPLOYEE SHALL NOT PROVIDE PERSONAL INFORMATION ABOUT AN  
39 INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES OR GRANT ACCESS TO  
40 OR THE USE OF THE NONPUBLIC AREAS OF A PROBATION OFFICE FOR THE  
41 PURPOSE OF CONDUCTING INVESTIGATIVE INTERVIEWS OR FOR ANY OTHER  
42 PURPOSE RELATED TO THE ENFORCEMENT OF CIVIL IMMIGRATION LAWS  
43

1 UNLESS FEDERAL IMMIGRATION AUTHORITIES PRESENT A WARRANT, WRIT,  
2 OR OTHER COURT ORDER ISSUED BY A FEDERAL JUDGE OR MAGISTRATE.

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

12 (a) THE INTERVIEW IS BEING SOUGHT BY FEDERAL IMMIGRATION  
13 AUTHORITIES;

14 (b) THE INDIVIDUAL HAS THE RIGHT TO DECLINE THE INTERVIEW  
15 AND REMAIN SILENT;

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

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

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

24 **24-76.6-104. Contracts related to enforcement of federal civil  
25 immigration laws prohibited.** THE STATE OR A POLITICAL SUBDIVISION  
26 OF THE STATE SHALL NOT ENTER INTO A CONTRACTUAL AGREEMENT,  
27 INCLUDING ANY SUBCONTRACTS, THAT WOULD REQUIRE AN EMPLOYEE TO  
28 DIRECTLY OR INDIRECTLY ASSIST IN THE ENFORCEMENT OF CIVIL  
29 IMMIGRATION LAWS, SPECIFICALLY ANY AGREEMENT AUTHORIZED BY 8  
30 U.S.C. SEC. 287 (g), REFERRED TO AS A "287g AGREEMENT". THE  
31 GENERAL ASSEMBLY FINDS THIS PROHIBITION IS NECESSARY BECAUSE  
32 SUCH AGREEMENTS DEPUTIZE LAW ENFORCEMENT OFFICERS TO ENFORCE  
33 FEDERAL IMMIGRATION LAW TO THE EXTENT CONSISTENT WITH STATE AND  
34 LOCAL LAW. COLORADO LAW EXPRESSLY LIMITS THE POWER OF SHERIFFS  
35 TO ENFORCING CRIMINAL LAW, MAKING ARRESTS FOR VIOLATIONS OF  
36 CRIMINAL LAW, AND HOUSING PRISONERS FOR VIOLATIONS OF CRIMINAL  
37 LAW. THE AUTHORITY OF SHERIFFS IS LIMITED TO THE EXPRESS AUTHORITY  
38 GRANTED THEM BY THE GENERAL ASSEMBLY, CONSISTENT WITH THE  
39 COLORADO SUPREME COURT OPINIONS IN *PEOPLE V. BUCKALLEW*, 848 P.2d  
40 904 (COLO. 1993) AND *DOUGLASS V. KELTON*, 610 P.2d 1067 (COLO.  
41 1980). THEREFORE, 287g AGREEMENTS ARE NOT CONSISTENT WITH STATE  
42 AND LOCAL LAW.

43 **SECTION 3. Safety clause.** The general assembly hereby finds,

1 determines, and declares that this act is necessary for the immediate  
2 preservation of the public peace, health, and safety.".

3 Page 1, strike lines 101 and 102 and substitute "**CONCERNING**  
4 **CLARIFICATION OF THE AUTHORITY OF CRIMINAL JUSTICE OFFICIALS**  
5 **WITH RESPECT TO THE ENFORCEMENT OF CERTAIN FEDERAL CIVIL**  
6 **LAWs.**".

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