

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 26-0501.03 Jacob Baus x2173

HOUSE BILL 26-1276

HOUSE SPONSORSHIP

Velasco and Garcia, Brown, Carter, Clifford, Duran, Froelich, Gilchrist, Goldstein, Jackson, Lindsay, Lukens, Mabrey, Martinez, McCormick, Nguyen, Paschal, Rutinel, Rydin, Sirota, Smith, Stewart K., Stewart R., Story, Titone, Willford, Woodrow, Zokaie

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROTECT THE SAFETY OF INDIVIDUALS**
102 **WHO ARE IMMIGRANTS IN COLORADO.**

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>.)

Under current law, the division of criminal justice (division) in the department of public safety (department) is required to create an annual report including information about law enforcement agency activity. The bill requires a law enforcement agency that participates in, or dedicates peace officers or resources to, a multijurisdictional or coordinated investigation or task force to submit that information to the division for

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

inclusion in the report. The division is required to submit the information to the general assembly's judiciary committees. A law enforcement agency is subject to a civil penalty for intentional failure to report the information as required.

Under current law, a state agency or political subdivision employee who intentionally violates provisions concerning the treatment of a person's personal identifying information is subject to a civil penalty. The bill extends the civil penalty liability to the state agency or political subdivision.

The bill requires a state agency or political subdivision that is served a subpoena by federal immigration authorities to send a copy of the subpoena to the department for the department to upload to its website. If the state agency or political subdivision fulfills the subpoena, the state agency or political subdivision is required to notify the person who is subject to the subpoena.

The bill prohibits a governmental entity or an airport from engaging with federal immigration authorities to transport individuals detained by federal immigration authorities. A governmental entity that violates these requirements is subject to a civil penalty.

The bill authorizes a public health agency to inspect or examine a facility that houses or detains individuals who are noncitizens for purposes of civil immigration proceedings.

Under current law, the department of public health and environment is authorized to inspect facilities that house or detain individuals who are noncitizens for purposes of civil immigration proceedings. The bill expands the inspection authority, including the frequency of inspections and items that are subject to inspection. A facility that refuses to allow the inspection is subject to a license revocation or a civil penalty.

The bill authorizes the department of public health and environment to require facilities that house or detain individuals who are noncitizens for purposes of civil immigration proceedings to require the facility to comply with requirements, including health and safety standards and paying for environmental impact studies. A facility that fails to comply is subject to a civil penalty. The bill requires the department of public health and environment to submit an annual report to the attorney general concerning facilities' compliance with these new requirements.

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

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SECTION 1. In Colorado Revised Statutes, 24-74-107, **amend**

1 (1) as follows:

2 **24-74-107. Data privacy breaches - civil penalty - legislative**
3 **declaration.**

4 ~~(1) (a) A state agency employee or political subdivision employee~~
5 ~~who intentionally violates a provision of this article 74 or section~~
6 ~~25-2-108.5 is subject to an injunction and is liable for a civil penalty of~~
7 ~~not more than fifty thousand dollars for each violation. IF A STATE~~
8 ~~AGENCY EMPLOYEE OR POLITICAL SUBDIVISION EMPLOYEE IS FOUND TO~~
9 ~~HAVE INTENTIONALLY VIOLATED A PROVISION OF THIS ARTICLE 74 OR~~
10 ~~SECTION 25-2-108.5, THE STATE AGENCY OR POLITICAL SUBDIVISION THAT~~
11 ~~EMPLOYS THE EMPLOYEE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE~~
12 ~~THAN FIFTY THOUSAND DOLLARS IF THE AGENCY OR POLITICAL~~
13 ~~SUBDIVISION:~~

14 (I) INTENTIONALLY AUTHORIZED OR ENCOURAGED THE VIOLATION;
15 OR

16 (II) INTENTIONALLY FAILED TO TAKE MEASURES WITHIN THE
17 AGENCY OR POLITICAL SUBDIVISION TO IMPLEMENT POLICIES OR
18 PROCEDURES TO DISCOURAGE OR PREVENT THE VIOLATION FROM
19 OCCURRING.

20 (b) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE
21 THIS SUBSECTION (1), INCLUDING AN ACTION SEEKING A CIVIL PENALTY.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 24-76.6-105 as
23 follows:

24 **24-76.6-105. Public disclosure of federal subpoena.**

25 (1) WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
26 SECTION, THE DEPARTMENT OF PUBLIC SAFETY SHALL MAKE AVAILABLE
27 ON A PUBLIC-FACING PAGE ON THE DEPARTMENT'S WEBSITE A COPY OF ALL

1 UNSEALED SUBPOENAS SERVED BY FEDERAL IMMIGRATION AUTHORITIES
2 ON A STATE AGENCY OR POLITICAL SUBDIVISION, AS EACH IS DEFINED IN
3 SECTION 24-74-102. A STATE AGENCY OR POLITICAL SUBDIVISION THAT IS
4 SERVED WITH AN UNSEALED SUBPOENA BY FEDERAL IMMIGRATION
5 AUTHORITIES SHALL PROVIDE A COPY OF THE UNSEALED SUBPOENA WITHIN
6 SEVENTY-TWO HOURS AFTER FULFILLING THE UNSEALED SUBPOENA TO THE
7 DEPARTMENT OF PUBLIC SAFETY FOR DISPLAY ON THE DEPARTMENT'S
8 WEBSITE. THE DEPARTMENT OF PUBLIC SAFETY SHALL UPDATE ITS WEBSITE
9 TO INCLUDE THE COPY OF THE UNSEALED SUBPOENA WITHIN TWENTY-FOUR
10 HOURS AFTER RECEIVING THE COPY OF THE UNSEALED SUBPOENA FROM A
11 STATE AGENCY OR POLITICAL SUBDIVISION. THE DEPARTMENT OF PUBLIC
12 SAFETY SHALL USE EXISTING OR FREELY AVAILABLE TECHNOLOGY TO
13 ACCOMPLISH THE REQUIREMENTS OF THIS SUBSECTION (1).

14 (2) (a) A STATE AGENCY OR POLITICAL SUBDIVISION THAT IS
15 SERVED WITH A SUBPOENA BY FEDERAL IMMIGRATION AUTHORITIES SHALL
16 INFORM THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND THE
17 SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES,
18 WITHIN SEVENTY-TWO HOURS AFTER RECEIVING THE UNSEALED
19 SUBPOENA.

20 (b) IF A STATE AGENCY OR POLITICAL SUBDIVISION FULFILLS A
21 SUBPOENA SERVED UPON THE STATE AGENCY OR POLITICAL SUBDIVISION
22 BY FEDERAL IMMIGRATION AUTHORITIES AND THE SUBPOENA CONTAINS
23 INFORMATION ABOUT, CONCERNING, OR OTHERWISE RELATING TO AN
24 INDIVIDUAL WHO LIVES IN COLORADO, THE STATE AGENCY OR POLITICAL
25 SUBDIVISION SHALL INFORM THE INDIVIDUAL AT THEIR LAST-KNOWN
26 ADDRESS THAT THEIR INFORMATION HAS BEEN SHARED WITH FEDERAL
27 IMMIGRATION AUTHORITIES WITHIN SEVENTY-TWO HOURS AFTER

1 FULFILLING THE SUBPOENA.

2

3 **SECTION 3.** In Colorado Revised Statutes, 25-1-506, **amend**
4 (3)(b) introductory portion, (3)(b)(XIV), and (3)(b)(XV); and **add**
5 (3)(b)(XVI) as follows:

6 **25-1-506. County or district public health agency.**

7 (3) (b) In addition to other powers and duties, an agency ~~shall~~
8 ~~have~~ HAS the following duties:

9 (XIV) To collaborate with the state department and the state board
10 in all matters pertaining to public health, the water quality control
11 commission in all matters pertaining to water quality, the air quality
12 control commission and the division of administration of the state
13 department in all matters pertaining to air pollution, and the solid and
14 hazardous waste commission in all matters pertaining to solid and
15 hazardous waste; ~~and~~

16 (XV) To establish or arrange for the establishment of, by January
17 1, 2015, and subject to available appropriations, a local or regional child
18 fatality prevention review team pursuant to section 25-20.5-404; AND

19 (XVI) IN ITS DISCRETION, TO INSPECT OR EXAMINE A FACILITY
20 THAT HOUSES OR DETAINS INDIVIDUALS WHO ARE NONCITIZENS FOR
21 PURPOSES OF CIVIL IMMIGRATION PROCEEDINGS.

22 **SECTION 4.** In Colorado Revised Statutes, 25-1.5-101, **amend**
23 (1)(i)(I)(D); and **add** (1)(dd) as follows:

24 **25-1.5-101. Powers and duties of department - laboratory cash**
25 **fund - office of suicide prevention - suicide prevention coordination**
26 **cash fund - immigration facility inspection and detention cash fund**
27 **- dispensation of payments under contracts with grantees - report -**

1 **rules - definitions.**

2 (1) The department has, in addition to all other powers and duties
3 imposed upon it by law, the powers and duties provided in this section as
4 follows:

5 (i) (I) (D) With respect to ~~any~~ A facility that houses or detains
6 INDIVIDUALS WHO ARE noncitizens for purposes of civil immigration
7 proceedings, ~~such~~ THE inspections and examinations must be made
8 annually, and additional unannounced inspections ~~may~~ AND
9 EXAMINATIONS MUST be conducted after the annual inspection.
10 UNANNOUNCED INSPECTIONS AND EXAMINATIONS MUST BE MADE AT
11 LEAST ONE TIME EVERY THREE MONTHS, AND MAY BE MADE MORE
12 FREQUENTLY, AND THE FACILITY SHALL PAY FOR THE INSPECTIONS AND
13 EXAMINATIONS. THE INSPECTIONS AND EXAMINATIONS MADE PURSUANT
14 TO THIS SUBSECTION (1)(i)(I)(D) MUST INCLUDE A REVIEW OF THE
15 FOLLOWING: ADHERENCE TO FOOD SAFETY STANDARDS AND DRINKING
16 WATER QUALITY STANDARDS, CONFINEMENT CONDITIONS, AND
17 STANDARDS OF CARE PROVIDED TO INDIVIDUALS WHO ARE DETAINED IN
18 THE FACILITY. THE FACILITY SHALL PROVIDE TO A DEPARTMENT
19 REPRESENTATIVE WHO IS CONDUCTING AN INSPECTION OR EXAMINATION
20 PURSUANT TO THIS SUBSECTION (1)(i)(I)(D), OR AN INVESTIGATION
21 RELATED TO AN EPIDEMIC OR COMMUNICABLE DISEASE, ALL ACCESS
22 NECESSARY TO PERFORM THE INSPECTION OR INVESTIGATION, INCLUDING
23 ACCESS TO PEOPLE WHO ARE DETAINED, RECORDS, FACILITY OFFICIALS,
24 AND FACILITY PERSONNEL. IF A FACILITY REFUSES TO ALLOW AN
25 INSPECTION OR EXAMINATION PURSUANT TO THIS SUBSECTION (1)(i)(I)(D)
26 OR INVESTIGATION RELATED TO AN EPIDEMIC OR COMMUNICABLE DISEASE,
27 THE DEPARTMENT MAY REVOKE THE FACILITY'S LICENSE, AND THE

1 FACILITY IS LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN FIFTY
2 THOUSAND DOLLARS FOR EACH REFUSAL. THE ATTORNEY GENERAL MAY
3 BRING AN ACTION TO ENFORCE THIS SUBSECTION (1)(i)(I)(D), INCLUDING
4 AN ACTION SEEKING A CIVIL PENALTY. ANY CIVIL PENALTY MONEY
5 COLLECTED PURSUANT TO THIS SUBSECTION (1)(i)(I)(D) MUST BE
6 TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY
7 TO THE IMMIGRATION LEGAL DEFENSE FUND ESTABLISHED PURSUANT TO
8 SECTION 8-3.8-101. THE DEPARTMENT MAY ADOPT RULES IT DETERMINES
9 ARE NECESSARY FOR PURPOSES OF THIS SUBSECTION (1)(i)(I)(D).

10 (dd) (I) WITH RESPECT TO A FACILITY THAT HOUSES OR DETAINS
11 INDIVIDUALS WHO ARE NONCITIZENS FOR PURPOSES OF CIVIL IMMIGRATION
12 PROCEEDINGS, THE POWER TO REQUIRE THE FACILITY TO:

13 (A) PROVIDE TO THE DEPARTMENT A YEARLY REPORT DETAILING
14 THE FOLLOWING: THE OUTCOMES OF PREGNANT INDIVIDUALS IN THE
15 FACILITY, OUTCOMES OF INDIVIDUALS WITH CHRONIC HEALTH CONDITIONS,
16 OUTCOMES OF INDIVIDUALS WITH DISABILITIES, ACCESS TO FOOD FOR
17 INDIVIDUALS WITH DIETARY RESTRICTIONS, AVERAGE TEMPERATURE
18 WITHIN THE FACILITY, HIGHEST AND LOWEST TEMPERATURES RECORDED
19 WITHIN THE FACILITY, INDIVIDUALS' ACCESS TO AN ATTORNEY, AND
20 INDIVIDUALS' ACCESS TO SPACES OF WORSHIP OR SILENT REFLECTION;

21 (B) PAY FOR AN ENVIRONMENTAL IMPACT STUDY AND PASS AN
22 ENVIRONMENTAL IMPACT STUDY. IF THE ENVIRONMENTAL IMPACT STUDY
23 IDENTIFIES A NEGATIVE IMPACT THAT IS OR WILL BE CAUSED BY THE
24 FACILITY, THE FACILITY IS PROHIBITED FROM OPERATING UNTIL THE
25 NEGATIVE IMPACT IS CORRECTED. THE FACILITY SHALL PAY FOR ANY COST
26 INCURRED RELATED TO PERMITTING OR AGENCY REVIEW AS REQUIRED BY
27 LAW.

1 (C) PROHIBIT THE HOUSING OR DETENTION OF A MINOR IN THE
2 SAME ROOM AS A NONFAMILIAL ADULT; AND

3 (D) ON THE FACILITY'S SITE AND AT ALL TIMES, STAFF THE
4 FACILITY WITH MEDICAL PROFESSIONALS AND MENTAL HEALTH
5 PROFESSIONALS WHO ARE ACCESSIBLE TO INDIVIDUALS WHO ARE
6 NONCITIZENS AND DETAINED FOR PURPOSES OF CIVIL IMMIGRATION
7 PROCEEDINGS.

8 (II) (A) IF A FACILITY FAILS TO COMPLY WITH A REQUIREMENT
9 IMPOSED BY THE DEPARTMENT PURSUANT TO THIS SUBSECTION (1)(dd),
10 THE DEPARTMENT MAY REVOKE THE FACILITY'S LICENSE. IF THE
11 DEPARTMENT DOES NOT REVOKE THE FACILITY'S LICENSE, THE FACILITY IS
12 LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN FIFTY THOUSAND
13 DOLLARS FOR EACH VIOLATION.

14 (B) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE
15 THIS SUBSECTION (1)(dd), INCLUDING AN ACTION SEEKING A CIVIL
16 PENALTY.

17 (C) ANY CIVIL PENALTY MONEY COLLECTED PURSUANT TO THIS
18 SUBSECTION (1)(dd) MUST BE TRANSFERRED TO THE STATE TREASURER,
19 WHO SHALL CREDIT THE MONEY TO THE IMMIGRATION LEGAL DEFENSE
20 FUND ESTABLISHED PURSUANT TO SECTION 8-3.8-101.

21 (III) ON OR BEFORE JANUARY 15, 2027, AND ON OR BEFORE
22 JANUARY 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT
23 A REPORT TO THE ATTORNEY GENERAL REGARDING FACILITIES'
24 COMPLIANCE WITH THIS SUBSECTION (1)(dd) AND INFORMATION
25 COLLECTED PURSUANT TO SUBSECTION (1)(dd)(I)(A) OF THIS SECTION.
26 THE DEPARTMENT SHALL MAKE THE REPORT AVAILABLE ON A
27 PUBLIC-FACING PAGE ON THE DEPARTMENT'S WEBSITE.

1 (IV) THIS SUBSECTION (1)(dd) APPLIES TO LOCAL, COUNTY, OR
2 PRIVATE DETENTION FACILITIES THAT HOUSE OR DETAIN INDIVIDUALS WHO
3 ARE NONCITIZENS FOR PURPOSES OF CIVIL IMMIGRATION PROCEEDINGS,
4 INCLUDING ANY FACILITY THAT IS OPERATED ON BEHALF OF OR PURSUANT
5 TO A CONTRACT WITH FEDERAL IMMIGRATION AUTHORITIES. THIS
6 SUBSECTION (1)(dd) DOES NOT APPLY TO DETENTION FACILITIES OPERATED
7 DIRECTLY BY THE FEDERAL GOVERNMENT.

8 (V) THE DEPARTMENT MAY ADOPT RULES IT DETERMINES ARE
9 NECESSARY FOR PURPOSES OF THIS SUBSECTION (1)(dd).

10 (VI) (A) THE IMMIGRATION FACILITY INSPECTION AND DETENTION
11 CASH FUND IS CREATED IN THE STATE TREASURY. THE IMMIGRATION
12 FACILITY INSPECTION AND DETENTION CASH FUND CONSISTS OF PAYMENTS
13 MADE BY THE FACILITY TO THE DEPARTMENT FOR UNANNOUNCED
14 INSPECTIONS AND EXAMINATIONS, AS REQUIRED PURSUANT TO
15 SUBSECTION (1)(i)(I)(D) OF THIS SECTION. THE DEPARTMENT SHALL
16 TRANSFER ALL PAYMENTS COLLECTED PURSUANT TO SUBSECTION
17 (1)(i)(I)(D) OF THIS SECTION TO THE STATE TREASURER, WHO SHALL
18 CREDIT THE PAYMENTS TO THE IMMIGRATION FACILITY INSPECTION AND
19 DETENTION CASH FUND.

20 (B) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
21 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
22 IMMIGRATION FACILITY INSPECTION AND DETENTION CASH FUND TO THE
23 IMMIGRATION FACILITY INSPECTION AND DETENTION CASH FUND.

24 (C) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
25 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR
26 THE PURPOSE OF CONDUCTING UNANNOUNCED INSPECTIONS AND
27 EXAMINATIONS, AS REQUIRED PURSUANT TO SUBSECTION (1)(i)(I)(D) OF

1 THIS SECTION.

2 (VII) AS USED IN THIS SUBSECTION (1)(dd), UNLESS THE CONTEXT
3 OTHERWISE REQUIRES:

4 (A) "MEDICAL PROFESSIONAL" MEANS AN ADVANCED PRACTICE
5 REGISTERED NURSE REGISTERED PURSUANT TO SECTION 12-255-111, A
6 PHYSICIAN ASSISTANT LICENSED PURSUANT TO SECTION 12-240-113, OR
7 A MEDICAL DOCTOR OR DOCTOR OF OSTEOPATHY LICENSED PURSUANT TO
8 ARTICLE 240 OF TITLE 12.

9 (B) "MENTAL HEALTH PROFESSIONAL" MEANS A MENTAL HEALTH
10 PROFESSIONAL LICENSED OR CERTIFIED PURSUANT TO ARTICLE 245 OF
11 TITLE 12, AN ADVANCED PRACTICE REGISTERED NURSE REGISTERED
12 PURSUANT TO SECTION 12-255-111 WITH TRAINING IN SUBSTANCE USE
13 DISORDERS OR MENTAL HEALTH, OR A PHYSICIAN ASSISTANT LICENSED
14 PURSUANT TO SECTION 12-240-113 WITH TRAINING IN SUBSTANCE USE
15 DISORDERS OR MENTAL HEALTH. "MENTAL HEALTH PROFESSIONAL" DOES
16 NOT MEAN AN UNLICENSED PSYCHOTHERAPIST AS DEFINED IN SECTION
17 12-245-202.

18 SECTION 5. In Colorado Revised Statutes, 8-3.8-101, **amend**
19 (2)(b) as follows:

20 **8-3.8-101. Immigration legal assistance - fund - report -**
21 **definitions.**

22 (2) (b) The state treasurer shall credit any civil penalty money
23 transferred to the state treasurer pursuant to section 24-74-107, ~~or~~
24 24-74.1-103, ~~or~~ **25-1.5-101 (1)(i)(I)(D) OR (1)(dd)** and interest and
25 income derived from the deposit and investment of the civil penalty
26 money in the fund to the fund.

27 SECTION 6. In Colorado Revised Statutes, **add** 24-76.6-104 as

1 follows:

2 **24-76.6-104. Limitation on access in detention facilities.** A LAW
3 ENFORCEMENT OFFICER, OR ANY EMPLOYEE OR AGENT OF A DETENTION
4 FACILITY, SHALL NOT ALLOW FEDERAL IMMIGRATION AUTHORITIES ACCESS
5 TO A PART OF THE DETENTION FACILITY THAT IS NOT ACCESSIBLE TO THE
6 PUBLIC UNLESS THE FEDERAL IMMIGRATION AUTHORITIES HAVE A
7 WARRANT ISSUED BY A FEDERAL JUDGE OR FEDERAL MAGISTRATE TO
8 ALLOW ACCESS OR THE FEDERAL IMMIGRATION AUTHORITIES HAVE A WRIT
9 ISSUED BY A JUDGE CONCERNING THE TRANSFER OF AN INMATE TO OR
10 FROM FEDERAL CUSTODY.

11 **SECTION 7. Severability.** If any provision of this act or the
12 application of this act to any person or circumstance is held invalid, the
13 invalidity does not affect other provisions or applications of the act that
14 can be given effect without the invalid provision or application, and to
15 this end the provisions of this act are declared to be severable.

16 **SECTION 8. Safety clause.** The general assembly finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety or for appropriations for
19 the support and maintenance of the departments of the state and state
20 institutions.