HOUSE BILL 23-1100

HOUSE SPONSORSHIP
Ricks and Garcia, Mabrey

SENATE SPONSORSHIP
Jaquez Lewis and Gonzales,

A BILL FOR AN ACT
CONCERNING RESTRICTIONS ON GOVERNMENTAL PARTICIPATION IN CIVIL IMMIGRATION DETENTION.

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 United States immigration and customs enforcement, the federal agency responsible for overseeing and implementing policies related to immigration detention, contracts out a portion of its detention capacity to state and local governments. State and local governments may then subcontract with prisons or immigration detention facilities that are owned, managed, or operated by private entities to house or detain
individuals for federal civil immigration purposes.

Beginning on January 1, 2024, the bill prohibits the state and any local government in the state (governmental entity) from:

- Entering into an agreement for the detention of individuals in an immigration detention facility that is owned, managed, or operated by a private entity;
- Selling any government-owned property for the purpose of establishing an immigration detention facility that is or will be owned, managed, or operated by a private entity;
- Paying any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated by a private entity;
- Receiving any payment related to the detention of individuals in an immigration detention facility that is owned, managed, or operated by a private entity; or
- Giving financial incentives or benefits to a private entity in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated by a private entity.

In addition, beginning on January 1, 2024, the bill prohibits a governmental entity from entering into or renewing an agreement for payment to house or detain individuals for federal civil immigration purposes (immigration detention agreement). The bill also requires a governmental entity with an existing immigration detention agreement to exercise the termination provision contained in the agreement by a specified date.

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

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

(a) The management and operation of detention facilities for immigrants involves functions that require unique training due to its civil nature, the diverse languages and backgrounds of the population, and the significant vulnerabilities of asylum seekers and others fleeing persecution;

(b) Detention requires the exercise of coercive police powers over
individuals that should not be delegated to the private sector and that is
distinguishable from privatization in other areas of government;

(c) It is an inappropriate exercise of a state's police powers to
detain individuals for federal immigration purposes given its implication
on foreign relations; and

(d) Issues of liability, accountability, and cost warrant a
prohibition of the ownership, operation, or management of detention
facilities by private contractors within the state and a phasing out of state
and local officials' involvement in civil immigration detention to the
fullest extent permitted under state law.

(2) The general assembly further finds and declares that it is
necessary to adopt this act to prohibit state and local governments from
contracting for the management or operation of immigration detention
and from facilitating the operation of immigration detention facilities in
the state by private entities.

SECTION 2. In Colorado Revised Statutes, add article 76.7 to
title 24 as follows:

ARTICLE 76.7

Prohibit State And Local Government
Involvement In Immigration Detention

24-76.7-101. Definitions. As used in this article 76.7, unless
the context otherwise requires:

(1) "GOVERNMENTAL ENTITY" MEANS THE STATE, ANY UNIT OF
LOCAL GOVERNMENT, A COUNTY SHERIFF, OR ANY AGENCY, OFFICER,
EMPLOYEE, OR AGENT THEREOF.

(2) "IMMIGRATION DETENTION AGREEMENT" MEANS ANY
CONTRACT, INCLUDING BUT NOT LIMITED TO AN INTERGOVERNMENTAL
SERVICE AGREEMENT, OR PORTION THEREOF FOR PAYMENT TO A
GOVERNMENTAL ENTITY TO DETAIN INDIVIDUALS FOR FEDERAL CIVIL
IMMIGRATION PURPOSES. FOR A CONTRACT OR INTERGOVERNMENTAL
SERVICE AGREEMENT THAT IS ONLY IN PART FOR THE DETENTION OF
INDIVIDUALS FOR FEDERAL IMMIGRATION OFFICIALS, THIS TERM ONLY
APPLIES TO THE CIVIL IMMIGRATION DETENTION PORTION OF THE
CONTRACT.

(3) "IMMIGRATION DETENTION FACILITY" MEANS ANY BUILDING,
FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR
DETAIN INDIVIDUALS FOR FEDERAL IMMIGRATION OFFICIALS.

24-76.7-102. Governmental entities - agreements with
privately owned immigration detention facilities - prohibition.
(1) BEGINNING ON JANUARY 1, 2024, A GOVERNMENTAL ENTITY SHALL
NOT:

(a) ENTER INTO AN AGREEMENT OF ANY KIND FOR THE DETENTION
OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY THAT IS OWNED,
MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(b) SELL ANY PUBLIC OR GOVERNMENT-OWNED PROPERTY OR
BUILDING FOR THE PURPOSE OF ESTABLISHING AN IMMIGRATION
DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR
OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(c) PAY, REIMBURSE, SUBSIDIZE, OR DEFRAY IN ANY WAY ANY
COSTS RELATED TO THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT,
OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION
DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR
OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(d) RECEIVE PER DIEM, PER DETAINEE, OR ANY OTHER PAYMENT
RELATED TO THE DETENTION OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY THAT IS OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY; OR

(e) OTHERWISE GIVE ANY FINANCIAL INCENTIVE OR BENEFIT TO ANY PRIVATE ENTITY OR PERSON IN CONNECTION WITH THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT, OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY.

24-76.7-103. Governmental entities - eliminate involvement in immigration detention. (1) BEGINNING ON JANUARY 1, 2024, A GOVERNMENTAL ENTITY SHALL NOT ENTER INTO OR RENEW AN IMMIGRATION DETENTION AGREEMENT.

(2) A GOVERNMENTAL ENTITY WITH AN EXISTING IMMIGRATION DETENTION AGREEMENT ON JANUARY 1, 2024, SHALL EXERCISE ANY TERMINATION PROVISION CONTAINED IN THE AGREEMENT NO LATER THAN JANUARY 1, 2024.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.