



Substitute Senate Bill No. 992

Public Act No. 19-20

AN ACT CONCERNING THE TRUST ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 54-192h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(a) For the purposes of this section:

(1) "Administrative warrant" means a warrant, notice to appear, removal order or warrant of deportation issued by an agent of a federal agency charged with the enforcement of immigration laws or the security of the borders, including ICE and the United States Customs and Border Protection, but does not include a warrant issued or signed by a judicial officer.

[(1)] (2) "Civil immigration detainer" means a [detainer request issued pursuant to 8 CFR 287.7;] request from a federal immigration authority to a local or state law enforcement agency for a purpose including, but not limited to:

(A) Detaining an individual suspected of violating a federal immigration law or who has been issued a final order of removal;

(B) Facilitating the (i) arrest of an individual by a federal

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immigration authority, or (ii) transfer of an individual to the custody of a federal immigration authority;

(C) Providing notification of the release date and time of an individual in custody; and

(D) Notifying a law enforcement officer, through DHS Form I-247A, or any other form used by the United States Department of Homeland Security or any successor agency thereto, of the federal immigration authority's intent to take custody of an individual;

[(2) "Convicted of a felony" means that a person has been convicted of a felony, as defined in section 53a-25, pursuant to a final judgment of guilt entered by a court in this state or in a court of competent jurisdiction within the United States upon a plea of guilty, a plea of nolo contendere or a finding of guilty by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from such judgment;]

(3) "Confidential information" means any information obtained and maintained by a law enforcement agency relating to (A) an individual's (i) sexual orientation, or (ii) status as a victim of domestic violence or sexual assault, (B) whether such individual is a (i) crime witness, or (ii) recipient of public assistance, or (C) an individual's income tax or other financial records, including, but not limited to, Social Security numbers;

[(3)] (4) "Federal immigration authority" means any officer, employee or other person otherwise paid by or acting as an agent of [United States Immigration and Customs Enforcement] ICE or any division thereof or any officer, employee or other person otherwise paid by or acting as an agent of the United States Department of Homeland Security or any successor agency thereto who is charged with enforcement of the civil provisions of the Immigration and

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Nationality Act; [and]

(5) "ICE" means United States Immigration and Customs Enforcement or any successor agency thereto;

(6) "ICE access" means any of the following actions taken by a law enforcement officer with respect to an individual who is stopped by a law enforcement officer with or without the individual's consent, arrested, detained or otherwise under the control of a law enforcement official or agency:

(A) Responding to a civil immigration detainer or request for notification pursuant to subparagraph (B) of this subdivision concerning such individual;

(B) Providing notification to a federal immigration authority that such individual is being or will be released at a certain date and time through data sharing or otherwise;

(C) Providing a federal immigration authority nonpublicly available information concerning such individual regarding release date or time, home address or work address, whether obtained through a computer database or otherwise;

(D) Allowing a federal immigration authority to interview such individual under the control of the law enforcement agency;

(E) Allowing a federal immigration authority to use a facility or resources in the control of a law enforcement agency to conduct interviews, administrative proceedings or other immigration enforcement activities concerning such individual; or

(F) Providing a federal immigration authority information regarding dates and times of probation or parole supervision or any other information related to such individual's compliance with the

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terms of probation or parole;

"ICE access" does not include submission by a law enforcement officer of fingerprints to the Automated Fingerprints Identification system of an arrested individual or the accessing of information from the National Crime Information Center by a law enforcement officer concerning an arrested individual;

(7) "Judicial officer" means any judge of the state or federal judicial branches and any federal magistrate judge. "Judicial officer" does not mean an immigration judge;

(8) "Law enforcement agency" means any agency for which a law enforcement officer is an employee of or otherwise paid by or acting as an agent of;

[(4)] (9) "Law enforcement officer" means:

(A) Each officer, employee or other person otherwise paid by or acting as an agent of the Department of Correction;

(B) Each officer, employee or other person otherwise paid by or acting as an agent of a municipal police department;

(C) Each officer, employee or other person otherwise paid by or acting as an agent of the Division of State Police within the Department of Emergency Services and Public Protection; and

(D) Each judicial marshal, [and] state marshal, [.] bail commissioner and adult probation officer; and

(10) "School police or security department" means any police or security department of (A) the constituent units of the state system of higher education, as defined in section 10a-1, (B) a public school, or (C) a local or regional school district.

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(b) (1) No law enforcement officer [who receives a civil immigration detainer with respect to an individual who is in the custody of the law enforcement officer shall detain such] or employee of a school police or security department shall:

(A) Arrest or detain an individual pursuant to [such] a civil immigration detainer unless the [law enforcement official determines that the individual:] detainer is accompanied by a warrant issued or signed by a judicial officer;

[(1) Has been convicted of a felony;

(2) Is subject to pending criminal charges in this state where bond has not been posted;

(3) Has an outstanding arrest warrant in this state;

(4) Is identified as a known gang member in the database of the National Crime Information Center or any similar database or is designated as a Security Risk Group member or a Security Risk Group Safety Threat member by the Department of Correction;

(5) Is identified as a possible match in the federal Terrorist Screening Database or similar database;

(6) Is subject to a final order of deportation or removal issued by a federal immigration authority; or

(7) Presents an unacceptable risk to public safety, as determined by the law enforcement officer.]

(B) Expend or use time, money, facilities, property, equipment, personnel or other resources to communicate with a federal immigration authority regarding the custody status or release of an individual targeted by a civil immigration detainer, except as provided in subsection (e) of this section;

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(C) Arrest or detain an individual based on an administrative warrant;

(D) Give a federal immigration authority access to interview an individual who is in the custody of a law enforcement agency; or

(E) Perform any function of a federal immigration authority, whether pursuant to 8 USC 1357(g) or any other law, regulation, agreement, contract or policy, whether formal or informal.

(2) The provisions of this subsection shall not prohibit submission by a law enforcement officer of fingerprints to the Automated Fingerprints Identification system of an arrested individual or the accessing of information from the National Crime Information Center by a law enforcement officer concerning an arrested individual.

[(c) Upon determination by the law enforcement officer that such individual is to be detained or released, the law enforcement officer shall immediately notify United States Immigration and Customs Enforcement. If the individual is to be detained, the law enforcement officer shall inform United States Immigration and Customs Enforcement that the individual will be held for a maximum of forty-eight hours, excluding Saturdays, Sundays and federal holidays. If United States Immigration and Customs Enforcement fails to take custody of the individual within such forty-eight-hour period, the law enforcement officer shall release the individual. In no event shall an individual be detained for longer than such forty-eight-hour period solely on the basis of a civil immigration detainer.]

(c) Prior to responding to a request for notification of an individual's release date and time from custody of a law enforcement agency, the law enforcement officer shall forward the request to the head of the law enforcement agency for review.

(d) Any confidential information of an individual who comes into

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contact with a law enforcement officer may be disclosed to a federal immigration authority only if such disclosure is:

(1) Authorized in writing by the individual to whom the information pertains, or by the parent or guardian of such individual if the individual is a minor or not legally competent to consent to such disclosure;

(2) Necessary in furtherance of a criminal investigation of terrorism;
or

(3) Otherwise required by law.

(e) (1) Upon receiving a civil immigration detainer, a law enforcement agency shall provide a copy of the detainer to the affected individual who is the subject of the detainer and inform the individual whether the law enforcement agency intends to comply with the detainer. If a law enforcement agency provides ICE with notification that an individual is being, or will be released on a certain date, the law enforcement agency shall promptly provide to the individual and to the individual's attorney or one other individual who the individual may designate, a copy of such notification as well as the reason, in writing, that such law enforcement agency is complying with the detainer.

(2) All records relating to ICE access maintained by law enforcement agencies shall be deemed public records under the Freedom of Information Act, as defined in section 1-200. Records relating to ICE access include, but are not limited to, data maintained by the law enforcement agency regarding the number and demographic data of individuals to whom the agency has provided ICE access, the date ICE access was provided to an individual, the type of ICE access provided to an individual, the amount of resources expended on providing ICE access and any communication between the law enforcement agency

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and any federal immigration authority.

(3) Beginning January 1, 2020, the legislative body of any municipality with a law enforcement agency that has provided ICE access to an individual during the prior month shall provide to the Office of Policy and Management, on an ongoing monthly basis, data regarding the number and demographic data of individuals to whom the law enforcement agency has provided ICE access, the date ICE access was provided to an individual and whether the ICE access was provided as part of compliance with a civil immigration detainer or through other means. Data may be provided in the form of statistics or, if statistics are not maintained, as individual records, provided personally identifiable information is redacted.

(f) The Office of Policy and Management shall ensure that the requirements of this section are disseminated to, and appropriate training is provided for, all affected law enforcement agencies and school police or security departments and employees and agents of such law enforcement agencies and school police or security departments. Such training may entail how law enforcement officers and other officials performing similar duties will adhere to the provisions of this section and how they will interact with crime victims, criminal suspects and individuals cooperating with law enforcement officers.

(g) No provision of this section shall be construed to provide, expand or ratify the legal authority of any law enforcement agency to detain an individual based on a civil immigration detainer request.

Approved June 18, 2019