GUIDANCE MEMORANDUM

Local Enforcement of Federal Immigration Law: Legal Guidance for Maryland State and Local Law Enforcement Officials

Updated June 2026

INTRODUCTION[1]

Immigration enforcement is the responsibility of the federal government.[2] Under certain circumstances, federal immigration authorities such as Immigration and Customs Enforcement ("ICE") and Customs and Border Protection ("CBP") will call upon State and local police and correctional officers to assist with this federal responsibility. Constitutional guardrails and Maryland State laws control when State and local officers may provide information or assistance for the purposes of immigration enforcement, when they must do so, and when such assistance is prohibited. This guidance is intended to describe what is required, what is allowed, and what is prohibited. Not every situation can be anticipated or addressed. Questions from State and local officials about this guidance should be directed to their government counsel.

When considering whether to engage or assist in immigration enforcement or in interactions with federal immigration officials, State and local law enforcement agencies ("LEAs") and correctional facilities should consider:

1. Law enforcement officers are prohibited from asking about a person's immigration status during a stop, search, or arrest, unless it is relevant to a crime being investigated by that officer or material to a routine booking procedure.

2. Law enforcement officers may not extend a detention to investigate a person's immigration status or based on the suspicion that the individual has committed a civil immigration violation.

3. Law enforcement officers are prohibited from transferring a person to ICE or other federal immigration authorities, unless required by federal law or unless federal immigration authorities want the person for a crime.

4. Except when doing so for criminal investigations, law enforcement officers generally may not provide information about a person obtained in the course of the officers' duties to ICE or other federal immigration authorities. Officers may share a person's citizenship or immigration status information in the rare circumstances in which they obtain it, but they may not share any other information about the person (such as physical location or personal identifying information) with federal immigration authorities, unless required by a valid court order or unless the disclosure is for a criminal investigation.

5. State and local law enforcement and correctional officers are generally prohibited from sharing personal information about a detainee, such as their name and address, with any federal agency seeking the information for immigration enforcement purposes, absent a judicial warrant. For these purposes, "personal information" does not include a person's citizenship or immigration status.

6. Local correctional facilities are generally prohibited from facilitating the removal or deportation of a noncitizen who lacks criminal history. Where a noncitizen has certain criminal convictions, a local correctional facility may generally cooperate in federal efforts to remove that person, except that the facility may not prolong the

person's detention on civil immigration grounds or coerce or intimidate any person based on citizenship or immigration status.

7. Units of State and local government are prohibited from entering into immigration detention agreements and immigration enforcement agreements with the federal government.

Following these principles will allow Maryland law enforcement agencies and correctional facilities to comply with federal law in a manner that respects Maryland law and the State and federal constitutional rights of individuals, protects local agencies and officials from potential legal liability and disciplinary action, and allows them to remain faithful to their mission of promoting public safety.

Effective law enforcement requires the trust of all communities. Law enforcement officers rely on residents to provide information to prevent and solve reported crimes. This is especially true of immigrant communities who may be reluctant to engage with law enforcement due to potential immigration consequences or the perception of racial and ethnic profiling. Immigrants with and without lawful immigration status may mistrust a law enforcement agency if its officers are perceived to be involved in immigration enforcement. To provide local law enforcement agencies with the tools to build this trust, the Maryland General Assembly has enacted laws to govern interactions with immigrants. Those laws are discussed in this guidance.

A. The Federal Government Cannot Compel State or Local Officials to Enforce Immigration Law

The Tenth Amendment to the United States Constitution bars the federal government from requiring State or local officials, including police officers and correctional officers, to enforce federal immigration laws.[3] The Tenth Amendment limits the federal government's ability to mandate particular action by states and localities, including in the area of federal immigration law enforcement and investigations. The federal government cannot "compel the States to enact or administer a federal regulatory program," or compel state employees to participate in the administration of a federally enacted regulatory scheme.[4] Coercive efforts by the federal government to compel a state to enforce a particular policy may constitute impermissible "commandeering" under federal law. The anti-commandeering restrictions of the Tenth Amendment extend not only to states but also to localities and their employees.[5] Voluntary cooperation with a federal scheme does not present Tenth Amendment issues, but the federal government may not force state or local officials to carry out federal law.[6]

Federal law does not impose civil or criminal liability on state and local law enforcement officials who decline to assist in immigration enforcement efforts. Attorney General Brown and his counterparts in other states have emphasized this point.[7] The federal government cannot require state and local LEAs to assist in immigration enforcement, and it is not a crime for state and local officials to decline to provide such assistance.[8] In fact, in many instances, as discussed below, Maryland law prohibits the provision of such assistance.

B. Law Enforcement and Corrections Officers May but Are Not Required to Share Information about Immigration Status with Immigration Officials

Consistent with the above principles, federal law does not and cannot require state or local governments or their officials to assist in immigration enforcement efforts by supplying federal immigration authorities with information about noncitizens. Federal law does, however, contain a provision that seeks to preserve the ability of state and local officials to share one narrow category of information on a voluntary basis. Specifically, 8 U.S.C. § 1373 provides that state and local governments cannot prohibit employees or entities "from sending to, or receiving from, [federal immigration authorities] information regarding the citizenship or immigration status, lawful or unlawful, of any individual."[9] In addition, it provides that state and local governments may not impose restrictions on "exchanging" information regarding "immigration status" with "any other Federal, State, or local government entity" or on "maintaining" such information.[10]

By its terms, 8 U.S.C. § 1373 applies only to "a person's legal classification under federal law."[11] It does not apply to other types of information, such as information about an individual's release, next court date, or address.[12] In addition, § 1373 places no affirmative obligation on LEAs to collect information about an individual's immigration status. As discussed further below, Maryland has enacted laws that prohibit officers and employees from inquiring about a person's immigration status except under narrow circumstances.[13]

Courts have held that § 1373 does not have preemptive effect—that is, that it cannot override state laws—and that it violates the Tenth Amendment.[14] However, the Maryland General Assembly has thus far chosen to align State law with the principles contained in § 1373. At least as far as State law is concerned, the sharing of an individual's citizenship or immigration status information with federal immigration authorities remains voluntary for Maryland law enforcement and correctional officers. As discussed in the ensuing sections of this guidance, however, Maryland law often does prohibit State and local officials from disclosing other information about an individual to federal immigration authorities.

C. Law Enforcement Officers May Not Assist in Civil Immigration Enforcement, Except Under Limited Circumstances

Maryland Criminal Procedure Article § 5-104 broadly prohibits State and local law enforcement officers (other than correctional officers) from assisting in the enforcement of civil immigration law.[15] In particular, subject to the key exceptions discussed below, the statute prohibits State and local officers from taking any of the following actions during the performance of "regular police functions":

- inquiring about an individual's "citizenship, immigration status, or place of birth during a stop, a search, or an arrest" (although officers may make these inquiries if they are material to routine booking procedures, and officers may prompt people to voluntarily disclose citizenship or immigration status where relevant to a protection under State, federal, or treaty law);

- detaining, or extending the detention of, an individual for the purposes of "investigating the individual's citizenship or immigration status, or based on the suspicion that the individual has committed a civil immigration violation";

- intimidating, threatening, or coercing any individual on the basis of the actual or perceived immigration status of the individual or their family member, legal guardian, or someone whom they serve as a guardian;

- transferring an individual to federal immigration authorities unless specifically required to do so by federal law; or

- providing federal immigration authorities with "information about an individual obtained in the course of the law enforcement agent's duties unless required by a valid court order."[16] For these purposes, information "obtained in the course of [a] law enforcement agent's duties" does not include a person's citizenship or immigration status.

For purposes of § 5-104, "federal immigration authorities" refers primarily to ICE, CBP, and the United States Citizenship and Immigration Services ("USCIS").[17]

There are two key exceptions to § 5-104's prohibitions. First, it does not prohibit cooperation with ICE or other federal immigration authorities on criminal investigations, including criminal investigations undertaken through a joint task force. The statute does not, for instance, prohibit law enforcement agents from arresting a person who is the subject of a judicial arrest warrant for an immigration-related crime, transferring that person to any federal immigration authorities pursuing the criminal investigation, or otherwise contacting federal immigration authorities about the criminal investigation.[18] Nor does the statute prohibit officers from responding to inquiries from federal immigration authorities for information pertaining to criminal trafficking or smuggling investigations. Nonetheless, law enforcement agents must take precautions to ensure that they do not confuse civil immigration matters for criminal matters. Removal matters—that is, matters where ICE pursues a noncitizen for removal from the United States—are always civil in nature, even if the noncitizen has criminal history or is being charged with a crime.[19] The mission of ICE's Enforcement and Removal Operations directorate (ICE-ERO) focuses on removal matters.[20] For law enforcement officers to transfer a subject to ICE or supply information to ICE because the subject is wanted for removal would unquestionably violate § 5-104 and may also violate the subject's constitutional rights.[21] Law enforcement agencies should impose safeguards to ensure that agents working in the field do not unwittingly engage in illegal civil immigration enforcement actions. Those safeguards could include, for example, requiring agents to obtain supervisory approval before supplying ICE with information about a matter that the agent believes to be criminal in nature.

Caution: ICE Hits in NCIC

State and local law enforcement officers must proceed with caution when encountering ICE hits in the National Crime Information Center (NCIC) database. ICE enters hundreds of thousands of administrative warrants into NCIC. Such warrants reflect civil violations of immigration law, not criminal activity. ICE often describes the subject of an administrative warrant as a "fugitive" even when the person is not wanted for any crime.

Maryland law prohibits officers from detaining a person, prolonging a person's detention, or providing information to ICE to facilitate investigation or arrest for civil immigration violations. Officers therefore are prohibited from taking any enforcement action, including extending a traffic stop or other type of seizure in order to contact ICE, based on an ICE hit for what appears to be an administrative warrant. In the unusual case where an ICE hit appears to correspond to a judicial warrant for criminal charges, officers should not make an arrest based on the hit without first confirming the warrant information, to ensure compliance with Maryland law.

Maryland law also generally prohibits officers from transferring an individual to federal immigration authorities, unless those authorities want the individual for a crime. Law enforcement agencies should therefore have policies in place to require supervisory or legal review before any person who is apprehended during regular police functions may be transferred to ICE.

These State law prohibitions do not apply to State and local corrections officers. The State law restrictions related to ICE requests to correctional facilities are discussed below in Part E.

Second, if a person's immigration or citizenship status is directly linked to legal protections afforded to that individual under State or federal law, a law enforcement agent may notify an individual that the legal protection exists and allow the individual the opportunity to self-disclose their immigration and/or citizenship status to avail themself of the legal protection or to satisfy a legal requirement. An example of this that may arise for local law enforcement agents would be the U-Visa process, which permits certain immigrants without lawful status who were victims of a crime to become eligible for a visa to remain in the United States if they cooperate with police investigations into the crime perpetrated against them.[22]

In addition, although Maryland officers are generally prohibited from inquiring about citizenship or immigration status, in the rare circumstances in which Maryland officers learn of that information, they are not prohibited from sharing it with federal immigration authorities.[23] Instead, the sharing of such status information is voluntary for officers under State law. However, absent a court order or unless the exception for criminal investigations applies, Maryland officers may not share other information about an individual with federal immigration authorities, including an individual's physical location, observed activities, personal information, or contact information.

D. Law Enforcement and Corrections Officers May Not Share Personal Information from Public Records with Immigration Officials

Maryland law contains another important restriction: § 4-320.1 of the General Provisions Article prohibits State and local officials from sharing an individual's photograph or "personal information" contained in public records with a federal agency or other person seeking to enforce the immigration laws, except pursuant to a judicial warrant.[24] The statute defines "personal information" as follows:

> (1) "Personal information" means information that identifies an individual.
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> (2) Except as provided in § 4-355 of this title [relating to higher education records], "personal information" includes an individual's:
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> (i) name;
> (ii) address;
> (iii) e-mail address;
> (iv) driver's license number or any other identification number;
> (v) medical or disability information;
> (vi) photograph or computer-generated image;
> (vii) Social Security number; and
> (viii) telephone number.
>
> (3) "Personal information" does not include an individual's:
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> (i) driver's status;
> (ii) driving offenses;
> (iii) five-digit zip code; or
> (iv) information on vehicular accidents.[25]

Section 4-320.1 is not intended to prohibit officials from responding to an inquiry from a federal agent about the citizenship or immigration status of an individual already known to the federal agent.[26] Nor does this provision restrict the sharing of non-identifying information, such as the anticipated release date of a person known to ICE (although, as discussed below, the Community Trust Act does restrict the ability of local correctional facilities to disclose the release dates of non-convicted individuals).[27] But the statute clearly does constrain the ability of local officials to share other information contained in public records "that identifies an individual" with the federal government for the purposes of immigration enforcement absent a judicial warrant. Thus, before disclosing a person's identifying information to federal immigration authorities, local officials should consult with counsel.

E. Responsibilities of Correctional Officials Regarding Assistance in Civil Immigration Enforcement

When ICE learns that a State or local correctional facility has custody of an individual who may be subject to removal, it might issue what is commonly referred to as an "immigration detainer." An immigration detainer advises the facility that ICE is seeking custody of the individual and asks the facility to notify ICE "as early as practicable (at least 48 hours, if possible) before the alien is released."[28] The detainer also asks the facility to hold the individual "for a period not to exceed 48 hours beyond the time when [the subject] would otherwise have

been released" to allow ICE officials the opportunity to assume custody.[29] Sometimes these detainers are issued in conjunction with an administrative warrant. Immigration detainers are requests only; local officers are not obligated to provide the forms of cooperation that they request and are prohibited from holding a person beyond their release date based on an administrative request.[30]

In 2026, the General Assembly enacted the Community Trust Act (the "Act") to address the extent to which State and local correctional facilities may comply with detainer requests or otherwise expend public resources on assisting in civil immigration enforcement.[31] The Act's requirements for local facilities differ significantly from those it imposes on State facilities. This distinction recognizes that people held in State correctional facilities, generally speaking, have already been convicted of a crime.[32] People held in local correctional facilities, in contrast, are often awaiting trial and may not have any criminal convictions. Because of this distinction, the pretrial facilities operated by the Maryland Department of Public Safety and Correctional Services ("DPSCS") in Baltimore City are "local correctional facilities" for purposes of the Act, even though they are operated by the State.[33]

1. Local Correctional Facilities (including DPSCS pretrial facilities)

The Act imposes two general prohibitions on local correctional facilities. First, it provides that a local facility may not prolong a person's detention solely because federal authorities want the person for a civil immigration violation or because the local facility suspects that the person has committed such a violation.[34] Second, the Act prohibits local facilities from coercing, intimidating, or threatening a person based on actual or perceived citizenship or immigration status.[35] These two general prohibitions apply to any incarcerated individual, regardless of their criminal history.

The Act imposes additional prohibitions on local facilities that apply only if an incarcerated individual does not have certain types of criminal convictions. Specifically, where an incarcerated individual does not meet the Act's definition of a "convicted individual," a local facility may not take any of the following actions:

(1) notify federal immigration authorities that the person is in custody, unless required by a valid court order or judicial warrant;
(2) transfer the person to federal immigration authorities, absent a valid judicial warrant; or
(3) inquire about or investigate the person's citizenship or immigration status, except where the information is material to a routine booking procedure.[36]

OAG interprets the first and second prohibitions to mean that local facilities may not give ICE advance notice of a non-convicted person's release date—regardless of whether ICE has issued a detainer requesting this information—or provide ICE with any other information about the person's custody status, absent a court order or judicial warrant.[37] Thus, in our view, advance release notification constitutes a notification "that an individual is in custody" and also amounts to a step towards a de facto "transfer" for purposes of the Act's restrictions on those forms of cooperation.

None of the Act's limitations on local correctional facilities restricts them from making inquiries that are "material to a routine booking procedure," from entering information into the

National Crime Information Center, or from facilitating an incarcerated individual's pursuit of immigration-related protections or consular services.[38]

To summarize, for people who meet the Act's definition of "convicted individual," local facilities may voluntarily engage in most forms of cooperation with ICE, although the prohibitions on coercion and prolonged detention still apply. For non-convicted individuals, the bill prohibits advance release notification and other forms of assistance to ICE absent a court order or judicial warrant.

2. State Correctional Facilities (not including DPSCS pretrial facilities)

The Act imposes only one prohibition on State correctional facilities: they may not coerce, intimidate, or threaten a person based on actual or perceived immigration status.[39] None of the other prohibitions that apply to local facilities extend to State facilities. The distinction between convicted and non-convicted individuals therefore has no bearing on State facilities.[40] Regardless of an incarcerated individual's criminal history, a State facility may voluntarily notify ICE of the individual's impending release or transfer the individual to ICE. To avoid constitutional violations and attendant liability risks, however, State facilities should not prolong a person's detention solely in response to a detainer or solely on civil immigration grounds, unless there is a judicial warrant or probable cause that the subject has committed a crime.[41]

The Act also mandates that State facilities *must* offer ICE one form of assistance. Specifically, where an incarcerated individual is the subject of a certain type of immigration detainer (one supported by a Form I-205 administrative removal warrant), the Act requires the State facility to notify ICE "within 48 hours before the release of the individual."[42] If an incarcerated individual is subject to a different type of immigration detainer—for example, one supported by a Form I-200 administrative arrest warrant—then the State facility may voluntarily provide advance release notification but is not required to do so.[43]

In sum, State facilities *may* notify ICE of the impending release of any incarcerated individual or otherwise facilitate the transfer of any individual to ICE, and *must* provide ICE with advance release notification in response to a certain type of detainer.

Restrictions on Immigration-Related Disclosures: Summary			
Actor	**Information That Cannot be Disclosed**	**To Whom**	**Unless**
Law enforcement officers	Information obtained in the course of their duties, except for citizenship or immigration status information	Federal immigration authorities	The disclosure is required by valid court order or is for a criminal investigation
Local correctional facilities	Custody status or expected release information of non-convicted individuals	Federal immigration authorities	A valid court order or judicial warrant requires the disclosure
State or local government employees (including law enforcement officers and correctional facilities)	Personal information from public records	Any person (including any federal official) seeking to enforce civil immigration laws	Presented with a valid judicial warrant

F. Contracting for Immigration Detention is Prohibited by Maryland Law

Section 1-102 of the Correctional Services Article prohibits the State, local governments, sheriffs, and their employees and agents from entering into contracts or agreements with detention facilities owned, managed, or operated by a private entity, in whole or in part, for the detention of immigrants.[44] Similarly, State and local governments may not financially support in any way the costs of creating or maintaining an immigration detention facility that is privately funded, or to receive any payment from the same. Finally, the State, a local government, or an employee or agent of the State or local government may not enter into or renew an immigration detention agreement.[45]

G. Entering into Immigration Enforcement Agreements is Prohibited by Maryland Law

Section 5-104.1 of the Criminal Procedure Article, enacted in 2026, prohibits the State, local governments, sheriffs, and their employees and agents from entering into any type of agreement with the federal government that authorizes State or local officials to enforce civil immigration laws. Among other types of immigration enforcement agreements, this statute forbids units of State and local government from entering into agreements under § 287(g) of the Immigration and Nationality Act (codified at 8 U.S.C. § 1357(g)).[46]

CONCLUSION

State law broadly prohibits police officers in Maryland from taking law enforcement actions for the purpose of enforcing the civil immigration laws. State law also significantly limits the ability of local correctional facilities to assist in federal efforts to remove noncitizens who lack criminal history. These limitations generally do not apply where a noncitizen has serious criminal convictions; nor do they generally extend to State correctional facilities. State law requires State correctional facilities to cooperate with ICE in some circumstances. Units of State and local government may not enter into immigration detention agreements, 287(g) agreements, or other types of immigration enforcement agreements.

Moreover, considerations of public safety and community trust are central to the decision of when and how local law enforcement officials engage with federal immigration officials. Practices that discourage the reporting of crimes and participation in the prevention or solution of crimes make the creation of public safety more difficult and undermine the mission of law enforcement to serve and protect all persons in their jurisdiction.

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[1] This guidance document updates previous guidance issued by the Office of the Attorney General, including most recently in April 2025. This updated version covers laws enacted during the 2026 legislative session of the Maryland General Assembly.

[2] *Arizona v. United States*, 567 U.S. 387, 409-10 (2012); *Truax v. Raich*, 239 U.S. 33, 42 (1915).

[3] The Tenth Amendment to the United States Constitution provides that "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

[4] *New York v. United States*, 505 U.S. 144, 188 (1992) (holding that the federal government may not compel states to enact legislation providing for the disposal of their radioactive waste or else take title to that waste); *Printz v. United States*, 521 U.S. 898, 935 (1997) (holding that the federal government may not require state and local law enforcement officers to perform background checks on prospective firearm purchasers).

[5] *See Printz*, 521 U.S. at 904-05.

[6] *See Nat'l Fed. of Ind. Bus. v. Sebelius*, 567 U.S. 519, 576-78 (2012).

[7] https://www.marylandattorneygeneral.gov/press/2025/012325.pdf

[8] *Id*.; *see also United States v. California*, 921 F.3d 865, 891 (9th Cir. 2019) ("[A state] has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal [immigration] efforts. . . . In this context, the federal government was free to *expect* as much as it wanted, but it could not *require* [the state's] cooperation without running afoul of the Tenth Amendment."); *id*. (explaining that anticommandeering principles empower states to "choose to discriminate against federal immigration authorities by refusing to assist their enforcement efforts").

[9] 8 U.S.C. § 1373(a). Another federal statute purports to impose essentially the same restriction on State and local governments. *See* 8 U.S.C. § 1644 ("[N]o State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States."). This other statute raises the same issues as § 1373. *See City of Chicago v. Sessions*, 961 F.3d 882, 888-89 (7th Cir. 2020); *United States v. New York*, 814 F. Supp. 3d 266, 276 n.6 (N.D.N.Y. 2025).

[10] 8 U.S.C. § 1373(b).

[11] *California*, 921 F.3d at 891.

[12] *See id.* at 891-92; *County of Ocean v. Grewal*, 475 F. Supp. 3d 355, 376 (D.N.J. 2020), *aff'd sub nom. Ocean County Bd. of Comm'rs v. Attorney General*, 8 F.4th 176 (3d Cir. 2021); *New York*, 814 F. Supp. 3d at 277-78.

[13] Md. Code Ann., Crim. Proc. ("CP") § 5-104; *Ocean Cnty. Bd. of Comm'rs v Attorney General of New Jersey*, 8 F.3d 176 (3d Cir. 2021) (local governments are permitted to prohibit their employees from enquiring about immigration status).

[14] *Ocean Cnty. Bd. of Comm'rs*, 8 F.4th at 182 & n.4 (holding that § 1373 lacks preemptive effect and collecting cases holding it unconstitutional); *California*, 921 F.3d at 893 n.19 (noting doubts about the statute's constitutionality).

[15] "[A]n agent or employee of a State correctional facility or a local correctional facility" is not considered a law enforcement agent for the purposes of this prohibition. CP § 5-104(a)(5)(ii), (b)(2).

[16] CP § 5-104(b); Md. Code Ann., Corr. Servs. ("CS") § 8-805(b)(3) (governing routine booking procedures in local correctional facilities).

[17] *See Mestanek v. Jaddou*, 93 F.4th 164, 170-171 (4th Cir. 2024) (explaining that the Homeland Security Act of 2002 transferred most immigration functions to these three agencies). The term may also encompass other federal agencies that have an immigration enforcement mission, but ICE, CBP, and USCIS are the most likely such agencies to interact with State and local police officers about immigration matters. *See id*.

[18] CP § 5-104(b)(2)(ii) (prohibiting detention "based on the suspicion that the individual has committed a *civil immigration violation*" (emphasis added)); *see* Letter from Patrick B. Hughes, Chief Counsel for Opinions & Advice, and Ben Harrington, Assistant Attorney General, to Carolyn J. Scruggs, Secretary of the Department of Public Safety and Correctional Services, at 12 (June 15, 2026) ("CP § 5-104(b)(v) should not be interpreted to restrict State and local law enforcement officers from sharing information with federal immigration authorities for criminal investigations, including in the joint task force context.").

[19] *See Arizona*, 567 U.S. at 396 (explaining that noncitizens may be removed if they "have been convicted of certain crimes," but declaring that removal is nonetheless a "civil, not criminal, matter").

[20] *See Mercado v. Noem*, 800 F. Supp. 3d 526, 543 (S.D.N.Y. 2025); *Texas v. United States*, 524 F. Supp. 3d 598, 612 (S.D. Tex. 2021).

[21] CP § 5-104(b)(2)(iii), (v); *see Santos v. Frederick County Bd. of Comm'rs,* 725 F.3d 451, 468 (4th Cir. 2013) (holding that sheriff's deputies violated a noncitizen's Fourth Amendment rights by arresting her solely on the basis of a civil immigration warrant).

[22] *See* https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status to learn more about U-Visas.

[23] Although the statute's prohibition on information sharing is worded broadly, *see* CP § 5-104(b)(v), this reading best comports with all the factors that bear on its interpretation, including the statute's structure, broader context, legislative history, and the history of how similar State laws have been interpreted in the past. *See, e.g., Lockshin v. Semsker,* 412 Md. 257, 275-76 (2010) (discussing the principles of Maryland statutory interpretation); Letter from Sandra Benson Brantley, Counsel to the General Assembly, to Del. Lorig Charkoudian (Mar. 6, 2025) (harmonizing Md. Code Ann., Gen. Prov. ("GP") § 4-320.1 and an earlier version of CP § 5-104 with 8 U.S.C. § 1373); Letter

from Sandra Benson Brantley, Counsel to the General Assembly, to Sen. Bill Ferguson, President of the Senate, and Del. Adrienne A. Jones, Speaker of the House of Delegates, at 3-4 (Feb. 11, 2025) (similar).

[24] GP § 4-320.1. Effective July 1, 2026, this provision applies to requests by any "person," rather than any "federal agency," who is seeking to enforce federal immigration law. 2026 Md. Laws, ch. 874 (amending GP § 4-320.1); *see also id.* (making other amendments to the statute, including to specify that a judicial warrant must "particularly describe[] the record to be accessed" in order to come under the warrant exception).

[25] GP § 4-101(h).

[26] *See id*.; Letter from Sandra Benson Brantley, Counsel to the General Assembly, to Del. Dana Stein (Feb. 8, 2018) (explaining that 8 U.S.C. § 1373 "does not preclude a State from enacting policies governing non-disclosure of other types of information [beyond information regarding citizenship or immigration status]").

[27] *See infra* Section E.

[28] DHS Form I-247A ("Immigration Detainer – Notice of Action," Mar. 2017), https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A.pdf.

[29] *See id.*

[30] *See, e.g.*, *Galarza v. Szalczyk*, 745 F.3d 634, 643 (3d Cir. 2014); *United States v. Valdez-Hurtado*, 638 F. Supp. 3d 879, 889 (N.D. Ill. 2022); *Alfaro-Garcia v. Henrico County*, 2016 WL 5388946 (E.D. Va., Sept. 26, 2016); *People ex rel. Swenson v. Ponte*, 46 Misc.3d 273 (N.Y. Supr. Ct. 2014); *see also* Guidance from ICE, Immigration Detainers | ICE. Immigration detainers should not be confused with interstate criminal detainers subject to the Interstate Agreement on Detainers, which Maryland officials are obligated to fulfill. *See generally* CS §§ 8-401 through 8-417.

[31] 2026 Md. Laws, ch. 872; S.B. 791, 2026 Leg., Reg. Sess. (enrolled bill).

[32] *See* 2026 Md. Laws, ch. 872 (adding CS § 8-805(a)(4) (defining "convicted individual" to include any person sentenced to a term in a State correctional facility)).

[33] The Act contains a drafting error in this regard: it incorporates an obsolete list of DPSCS pretrial facilities, including one facility (the Baltimore City Detention Center) that no longer exists. 2026 Md. Laws, ch. 872 (adding CS § 8-805(a)(7), (c)(1)). We have no doubt that the General Assembly intended the bill to incorporate at the very least the list of existing DPSCS pretrial facilities contained in § 5-201(b) of the Correctional Services Article. *See Patton v. Wells Fargo Fin. Md., Inc.*, 437 Md. 83, 97-98 (2014) (explaining that courts do not give effect to a "patent drafting error").

[34] 2026 Md. Laws, ch. 872 (adding CS § 8-805(b)(2)).

[35] *Id*. at 5 (adding CS § 8-805(d)).

[36] *Id.* at 3-5 (adding CS § 8-805(b)).

[37] Although the statutory text is arguably ambiguous, reading the Act to prohibit local facilities from providing ICE with advance release notification about a non-convicted individual is the only interpretation that comports with the Act's legislative history and purpose. *See, e.g.*, House Floor Proceedings No. 65, 2026 Leg., Reg. Sess., at 2:30:50 (Apr. 11, 2026) (Floor Leader Embry: under the bill, "the local facility would not honor [a] detainer until a conviction."); House Floor Proceedings No. 66, 2026 Leg., Reg. Sess., at 1:08:30 (Apr. 11, 2026) (Floor Leader

Embry explaining that the bill aims specifically at limiting compliance with "ICE detainers, which are civil infractions").

[38] 2026 Md. Laws, ch. 872 (adding CS § 8-805(b)(3)-(4)).

[39] *Id*. at 5 (adding CS § 8-805(d)).

[40] *See id*. at 3-4 (adding CS § 8-805(b)).

[41] *See, e.g*., *Santos v. Frederick County Bd. of Comm'rs*, 725 F.3d 451, 465 (4th Cir. 2013) ("Because civil immigration violations do not constitute crimes, suspicion or knowledge that an individual has committed a civil immigration violation, by itself, does not give a law enforcement officer probable cause to believe that the individual is engaged in criminal activity."); *Creedle v. Miami-Dade County*, 349 F. Supp. 3d 1276, 1304 (S.D. Fla. 2018) ("Numerous courts have determined that when local law enforcement agencies hold someone pursuant to a detainer—and without separate probable cause that the person has committed a crime—such detention gives rise to a Fourth Amendment claim against the local law enforcement.").

[42] 2026 Md. Laws, ch. 872 (adding CS § 8-805(a)(5), (c)(2)).

[43] *See id.*; *see generally N.S. v. Dixon*, 141 F.4th 279, 282 (D.C. Cir. 2025) (explaining that, with each detainer, ICE issues *either* an "I-200 Warrant of Arrest" or an "I-205 Warrant of Removal/Deportation").

[44] CS § 1-102.

[45] *Id.*

[46] *See* CP § 5-104.1(a)(2).