

HOUSE BILL 388

E2, E4

0lr0625

By: Delegates Pena–Melnik, Acevero, Barron, Bartlett, Carr, Charkoudian, Ebersole, Feldmark, Fennell, W. Fisher, Fraser–Hidalgo, Gilchrist, Haynes, Hettleman, Hill, Holmes, Ivey, Kaiser, Korman, Lehman, J. Lewis, R. Lewis, Lierman, Love, Luedtke, Moon, Mosby, Palakovich Carr, Rosenberg, Shetty, Solomon, Stein, Stewart, Terrasa, Valentino–Smith, and Washington

Introduced and read first time: January 22, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Civil Immigration Enforcement – Restrictions**

3 FOR the purpose of prohibiting a certain law enforcement agent from making a certain
4 inquiry of an individual under certain circumstances or transferring an individual to
5 federal immigration authorities under certain circumstances; prohibiting a certain
6 law enforcement agent from taking certain actions pursuant to a certain request
7 without a certain judicial warrant under certain circumstances; defining certain
8 terms; making the provisions of this Act severable; and generally relating to civil
9 immigration enforcement.

10 BY adding to

11 Article – Criminal Procedure

12 Section 2–109

13 Annotated Code of Maryland

14 (2018 Replacement Volume and 2019 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Procedure**

18 **2–109.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) "JUDICIAL WARRANT" MEANS A WARRANT BASED ON PROBABLE CAUSE AND ISSUED BY A FEDERAL JUDGE OR A FEDERAL MAGISTRATE JUDGE THAT AUTHORIZES FEDERAL IMMIGRATION AUTHORITIES TO TAKE INTO CUSTODY THE PERSON WHO IS THE SUBJECT OF THE WARRANT.

(3) "LAW ENFORCEMENT AGENT" INCLUDES:

(I) A LAW ENFORCEMENT OFFICER, AS DEFINED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE;

(II) A CHIEF, AS DEFINED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE; AND

(III) AN AGENT OR EMPLOYEE OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY.

(B) A LAW ENFORCEMENT AGENT MAY NOT:

(1) INQUIRE ABOUT AN INDIVIDUAL'S IMMIGRATION STATUS, CITIZENSHIP STATUS, OR PLACE OF BIRTH DURING A STOP, A SEARCH, OR AN ARREST; OR

(2) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES UNLESS REQUIRED BY FEDERAL LAW.

(C) WITHOUT A JUDICIAL WARRANT, A LAW ENFORCEMENT AGENT MAY NOT, PURSUANT TO A REQUEST BY FEDERAL IMMIGRATION AUTHORITIES MADE SOLELY FOR IMMIGRATION ENFORCEMENT PURPOSES:

(1) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES;

(2) DETAIN AN INDIVIDUAL;

(3) NOTIFY FEDERAL IMMIGRATION AUTHORITIES OF AN INDIVIDUAL'S LOCATION, ADDRESS, OR RELEASE DATE; OR

(4) OTHERWISE USE LAW ENFORCEMENT RESOURCES TO FURTHER CIVIL IMMIGRATION ENFORCEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other

1 application of this Act that can be given effect without the invalid provision or application,
2 and for this purpose the provisions of this Act are declared severable.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2020.