

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2018

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Legislative Document

No. 1833

H.P. 1275

House of Representatives, February 8, 2018

### **An Act To Facilitate Compliance with Federal Immigration Law by State and Local Government Entities**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative LOCKMAN of Amherst. (GOVERNOR'S BILL)  
Cosponsored by Senator MASON of Androscoggin and  
Representatives: DILLINGHAM of Oxford, TIMBERLAKE of Turner, WARD of Dedham,  
Senators: BRAKEY of Androscoggin, CUSHING of Penobscot, KEIM of Oxford, President  
THIBODEAU of Waldo, WHITTEMORE of Somerset.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 5 MRSA Pt. 31 is enacted to read:

3 **PART 31**

4 **IMMIGRATION INFORMATION SHARING**

5 **CHAPTER 631**

6 **IMMIGRATION STATUS**

7 **§25001. Short title**

8 This chapter may be known and cited as "the Public Safety and Protection Act."

9 **§25002. Definitions**

10 As used in this chapter, unless the context otherwise indicates, the following terms  
11 have the following meanings.

12 **1. Department of Homeland Security.** "Department of Homeland Security" means  
13 the United States Department of Homeland Security, or its successor agency, and any of  
14 its component agencies, including United States Immigration and Customs Enforcement  
15 and United States Customs and Border Protection.

16 **2. Government entity.** "Government entity" means a state government entity, state  
17 government entity official, local government entity, local government entity official, law  
18 enforcement agency or law enforcement agency official.

19 **3. Immigration detainer.** "Immigration detainer" means a written request issued on  
20 behalf of the Department of Homeland Security to a federal, state or local law  
21 enforcement agency to provide notice of release of and to detain an individual based on  
22 an inquiry into immigration status or an alleged violation of a civil immigration law,  
23 including detainers issued pursuant to 8 Code of Federal Regulations, Section 287.7 or  
24 236.1 or on a Department of Homeland Security form requesting voluntary notification of  
25 a pending release of a person identified by the Department of Homeland Security as a  
26 suspected priority alien or requesting a law enforcement agency to voluntarily take action  
27 to maintain custody of a detained person.

28 **4. Inmate.** "Inmate" means an individual in the custody of a law enforcement  
29 agency.

30 **5. Law enforcement agency.** "Law enforcement agency" means an agency in the  
31 State charged with enforcement of state, county, municipal or federal laws or with  
32 managing custody of detained persons in the State and includes but is not limited to  
33 municipal police departments; sheriffs' departments; the State Police; if a university or  
34 college has an organized police department, the campus police; and the Department of  
35 Public Safety.

1        **6. Law enforcement agency official.** "Law enforcement agency official" means a  
2        person having official duties as a representative, agent or employee of a law enforcement  
3        agency.

4        **7. Local government entity.** "Local government entity" means a county,  
5        municipality or other political subdivision of the State.

6        **8. Local government entity official.** "Local government entity official" means a  
7        person having official duties as a representative, agent or employee of a local government  
8        entity.

9        **9. State government entity.** "State government entity" means a department, agency,  
10       bureau, commission, council or other entity established under the laws of the State.

11       **10. State government entity official.** "State government entity official" means a  
12       person having official duties as a representative, agent or employee of a state government  
13       entity.

14       **§25003. Prohibitions concerning sharing and use of information; compliance with**  
15       **federal law and law enforcement**

16       **1. Restricting other government entity from sending or receiving citizenship or**  
17       **immigration status information.** A government entity may not prohibit or in any way  
18       restrict any other government entity from sending to or receiving from the Department of  
19       Homeland Security information regarding the lawful or unlawful citizenship or  
20       immigration status of any individual.

21       **2. Restrictions concerning immigration status information.** With respect to  
22       information regarding the lawful or unlawful immigration status of an individual, a  
23       government entity may not prohibit or in any way restrict:

24       **A. Sending such information to or requesting or receiving such information from the**  
25       **Department of Homeland Security;**

26       **B. Maintaining such information;**

27       **C. Exchanging such information with another government entity or a federal agency;**

28       **D. Using such information to determine eligibility for a public benefit, service or**  
29       **license provided by federal law or a law of the State or its political subdivisions;**

30       **E. Using such information to verify a claim of residence or domicile if a**  
31       **determination of residence or domicile is required under federal law or a law of the**  
32       **State or its political subdivisions or under a judicial order issued pursuant to a civil or**  
33       **criminal proceeding in the State; or**

34       **F. Using such information to confirm the identity of a person who is detained by a**  
35       **law enforcement agency.**

36       **3. Compliance with and support for federal immigration laws.** A government  
37       entity shall fully comply with and to the full extent permitted by law support the  
38       enforcement of federal immigration law.

1        **4. Enforcement of federal immigration laws.** A government entity may not limit  
2 or restrict the enforcement of federal immigration law, including, but not limited to,  
3 limiting or restricting a government entity from complying with an immigration detainer,  
4 limiting or restricting a government entity from providing a federal immigration official  
5 access to an inmate for an interview, limiting or restricting a government entity from  
6 initiating an immigration status investigation or limiting or restricting a government  
7 entity from providing a federal immigration official with the incarceration status or  
8 release date of an inmate in custody of a government entity.

9        **§25004. Complaint process; appeals**

10        **1. Resident complaints and Legislator requests submitted to Attorney General.**  
11 A resident of the State may submit a complaint to the Attorney General asserting a  
12 violation of section 25003 by a government entity. The complaint must be in writing and  
13 in a form and manner as prescribed by the Attorney General. A member of the  
14 Legislature may request that the Attorney General investigate and issue an opinion as to  
15 whether a government entity has violated section 25003.

16        **2. Attorney General investigation.** After receiving a complaint or request under  
17 subsection 1, the Attorney General shall investigate and determine whether a violation of  
18 section 25003 has occurred. If after the investigation the Attorney General determines  
19 that a violation of section 25003 has occurred, the Attorney General shall issue an  
20 opinion that a violation has occurred. The Attorney General shall make the opinion  
21 available to the public.

22        **3. Review of Attorney General findings.** If the Attorney General issues an opinion  
23 pursuant to subsection 2 that a government entity has violated section 25003, the  
24 government entity has 30 days from the date the opinion was issued to contest the finding  
25 in Superior Court.

26        A. If the Superior Court affirms the Attorney General's findings, the court shall  
27 immediately enjoin the policy or practice in violation of section 25003. A  
28 government entity that fails to comply with an injunction is subject to a fine of \$500  
29 for each day the policy or practice of the government entity remains in effect.

30        B. If the Superior Court overturns the Attorney General's findings, the Attorney  
31 General shall immediately certify that the government entity is in compliance with  
32 section 25003.

33        **§25005. Duty to report**

34        A state government entity official, local government entity official, law enforcement  
35 agency official or person holding public office shall report a violation of section 25003 by  
36 submitting a complaint to the Attorney General pursuant to section 25004, subsection 1.  
37 A person who reports a violation under this section is protected under the Whistleblowers'  
38 Protection Act.

