

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1971

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H.P. 1315

House of Representatives, May 13, 2025

**An Act to Protect Workers in This State by Clarifying the  
Relationship of State and Local Law Enforcement Agencies with  
Federal Immigration Authorities**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Robert B. Hunt*

ROBERT B. HUNT  
Clerk

Presented by Representative DHALAC of South Portland.  
Cosponsored by Senator TALBOT ROSS of Cumberland and  
Representatives: ABDI of Lewiston, DEBRITO of Waterville, HASENFUS of Readfield, LEE  
of Auburn, MACIAS of Topsham, RANA of Bangor, SATO of Gorham, YUSUF of Portland.

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

2 Sec. 1. 5 MRSA c. 337-E is enacted to read:

3 **CHAPTER 337-E**

4 **IMMIGRATION**

5 **§4761. Definitions**

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

8 **1. Civil immigration warrant.** "Civil immigration warrant" means a warrant for a  
9 violation of federal civil immigration law.

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

14 **3. Hold request.** "Hold request" means a request issued by an immigration authority  
15 to a local law enforcement agency, including an immigration detainer, that the law  
16 enforcement agency maintain custody of a person in the law enforcement agency's custody  
17 beyond the time the person would otherwise be eligible for release in order to facilitate  
18 transfer to the immigration authority.

19 **4. Immigration authority.** "Immigration authority" means a federal, state or local  
20 officer, employee or other person performing immigration enforcement functions,  
21 including the Department of Homeland Security.

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

31 **6. Immigration enforcement.** "Immigration enforcement" means any effort to  
32 investigate, enforce or assist in the investigation or enforcement of any federal civil  
33 immigration law and includes any effort to investigate, enforce or assist in the investigation  
34 or enforcement of any violations of Title 8 of the United States Code.

35 **7. Inmate.** "Inmate" means an individual in the custody of a law enforcement agency.

36 **8. Law enforcement agency.** "Law enforcement agency" means an agency in the State,  
37 including an employee or agent of the agency, charged with enforcement of state, county  
38 or municipal laws or with managing custody of detained persons in the State and includes  
39 but is not limited to municipal police departments, sheriff's departments, the State Police,

1 a university or college campus police department, safety department or the equivalent, the  
2 Department of Corrections and the Department of Public Safety.

3 **§4762. Prohibited activities**

4 **1. Prohibited activities.** A law enforcement agency may not:

5 A. Except as provided in subsection 2, use agency or department money or personnel  
6 to investigate, interrogate, detain, detect, stop, arrest or search a person for immigration  
7 enforcement purposes, including:

8 (1) Inquiring into a person's immigration status;

9 (2) Detaining a person on the basis of a hold request;

10 (3) Providing information regarding the person's release date unless that  
11 information is available to the public;

12 (4) Providing personal information about the person, including the person's home  
13 address or work address;

14 (5) Making or intentionally participating in an arrest based upon a hold request;

15 (6) Assisting immigration authorities in activities described in 8 United States  
16 Code, Section 1357(a)(3); or

17 (7) Performing the functions of an immigration authority;

18 B. Place a law enforcement officer under the supervision of a federal agency or employ  
19 a law enforcement officer deputized as a special federal officer or special federal  
20 deputy for immigration enforcement;

21 C. Use an agent or employee of an immigration authority as an interpreter for local law  
22 enforcement agency matters regarding a person in the law enforcement agency's  
23 custody;

24 D. Transfer a person to an immigration authority unless authorized by a court order or  
25 criminal warrant; or

26 E. Provide office space within a law enforcement agency facility for use by an  
27 immigration authority for a generalized search of or inquiry about an inmate.

28 With the exception of willful or wanton misconduct, a law enforcement agency that acts in  
29 good faith compliance with this section in releasing a person subject to a hold request is  
30 immune from civil or criminal liability as a result of making the release.

31 **2. Permitted activities.** Notwithstanding the provisions of subsection 1, if an activity  
32 does not violate a policy of the law enforcement agency or a state or local law or policy of  
33 the jurisdiction in which the agency is operating, a law enforcement agency may:

34 A. Investigate, take enforcement action against or detain a person upon reasonable  
35 suspicion of or arrest a person for a violation of 8 United States Code, Section 1326  
36 that may be subject to the enhancement specified under 8 United States Code, Section  
37 1326(b)(2) and that is detected during an unrelated law enforcement activity. A transfer  
38 to an immigration authority under this paragraph is permitted only if authorized by a  
39 court order or criminal warrant;

1 B. Respond to a request from an immigration authority for information about a specific  
2 person's criminal history, including a previous criminal arrest or conviction or similar  
3 public criminal history record information accessed under Title 16, chapter 7, when  
4 otherwise permitted by state law;

5 C. Conduct enforcement or investigative duties associated with a joint law enforcement  
6 task force, including the sharing of confidential information with another law  
7 enforcement agency, for the purpose of a task force investigation, if:

8 (1) The primary purpose of the joint law enforcement task force is not immigration  
9 enforcement;

10 (2) The enforcement or investigative duties are primarily related to a violation of  
11 state or federal law unrelated to immigration enforcement; and

12 (3) Participation in the task force by the law enforcement agency does not violate  
13 any state or local law or policy to which the agency is subject;

14 D. Make an inquiry into information necessary to certify an individual identified as a  
15 potential crime or trafficking victim for a visa pursuant to 8 United States Code, Section  
16 1101(a)(15)(T) or 1101(a)(15)(U) or to comply with 18 United States Code, Section  
17 922(d)(5);

18 E. Give an immigration authority access to interview an individual in the custody of  
19 the agency; or

20 F. Arrest or detain a person upon a hold request if the person:

21 (1) Has been convicted of murder or a Class A, B or C crime;

22 (2) Is subject to pending criminal charges when bail has not been set;

23 (3) Is subject to an outstanding arrest warrant;

24 (4) Is identified as a possible match in the federal terrorist screening database or  
25 similar database;

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

28 (6) Presents an unacceptable risk to public safety as determined by the law  
29 enforcement agency.

30 **3. Detention solely for immigration enforcement.** If a person is being detained solely  
31 for the purposes of immigration enforcement, the person must be released as soon as  
32 possible and may be detained no longer than 48 hours, excluding Saturdays, Sundays and  
33 federal holidays.

34 **4. State employees.** A state employee, other than law enforcement officers, judges and  
35 counsel for defendants in criminal proceedings, may not inquire about a person's  
36 immigration status unless:

37 A. Determining the person's immigration status is necessary for the determination of  
38 program, service or benefit eligibility or the provision of state services; or

39 B. The state employee is required by federal or state law or by court order to inquire  
40 about the person's immigration status.

1       **5. Exceptions.** This section does not prohibit:

2       A. A law enforcement agency from sending to or requesting or receiving from an  
3       immigration authority information regarding the immigration status of a person or  
4       maintaining or exchanging that information with any other federal, state or local  
5       governmental entity under 8 United States Code, Section 1373 or 1644; or

6       B. A law enforcement agency from asserting the agency's own jurisdiction over a  
7       criminal law enforcement matter.

8       **§4763. Duties of custodial law enforcement agencies**

9       **1. Custodial duties.** A law enforcement agency shall for an inmate in the agency's  
10      custody:

11      A. In advance of an interview between the inmate and an immigration authority  
12      regarding a civil immigration violation, provide the inmate with a written consent form  
13      that explains the purpose of the interview, that the interview is voluntary and that the  
14      inmate may decline the interview or be interviewed only with the inmate's attorney  
15      present. The consent form must be written in the primary language of the inmate and  
16      read to the inmate by a person who is not an immigration authority. This paragraph  
17      does not establish a right of counsel that otherwise does not exist in law; and

18      B. Upon receiving a hold request, provide a copy of the request to the inmate and  
19      inform the inmate whether the agency intends to comply with the request.

20      **2. Custodial prohibitions.** A law enforcement agency may not:

21      A. Restrict access to an in-custody educational or rehabilitative program or good  
22      behavior credit-earning opportunity on the sole basis of citizenship or immigration  
23      status, including whether the inmate is in removal proceedings or an immigration  
24      authority has issued a hold request or civil immigration warrant against the inmate; or

25      B. Consider citizenship or immigration status as a factor in determining an inmate's  
26      custodial classification level, including whether the person is in removal proceedings  
27      or an immigration authority has issued a hold request or civil immigration warrant  
28      against the inmate.

29      **§4764. Records**

30      A law enforcement agency shall retain indefinitely a copy of a hold request and any  
31      other request along with any accompanying information or documentation provided by an  
32      immigration authority and information on the inmate subject to the hold request, including:

33      **1. Race.** The inmate's race;

34      **2. Gender.** The inmate's gender;

35      **3. Birthplace.** The inmate's place of birth;

36      **4. Date and time of arrest.** The inmate's date and time of arrest;

37      **5. Charges.** All of the inmate's charges of arrest;

38      **6. Receipt of hold request.** The date and time of receipt of the hold request;

39      **7. Custody.** The date and time that the inmate was taken into custody by the  
40      immigration authority acting under authority of the hold request;

**8. History.** The inmate's immigration and criminal history known or recorded in the hold request;

**9. Accompanying information.** A listing of any accompanying information or documentation regarding immigration status or proceedings; and

**10. Copy provided.** Documentation that a copy of the hold request was provided to the inmate as required by section 4763, subsection 1, paragraph B.

## SUMMARY

This bill enacts provisions to clarify the relationship of state and local law enforcement agencies, including correctional facilities, and state employees with federal immigration authorities. The bill:

1. Prohibits a law enforcement agency from stopping, investigating, interrogating, arresting or detaining a person for immigration enforcement purposes, including in response to a hold request, immigration detainer or administrative warrant issued by the United States Department of Homeland Security, or allowing the United States Department of Homeland Security access to inmates or inmate information or providing law enforcement agency resources or personnel to assist immigration enforcement activities;

2. Clarifies that a law enforcement agency upon a request from the United States Department of Homeland Security may arrest and detain a person and perform other law enforcement duties due to suspected criminal activity or other reasons not solely based on the person's immigration status;

3. Establishes the permissible scope of collaboration of a law enforcement agency with a joint law enforcement task force;

4. Requires a law enforcement agency to release as soon as possible and detain no longer than 48 hours a person determined to be held solely for immigration enforcement purposes;

5. Establishes duties and prohibitions for law enforcement agencies regarding immigration issues of inmates, including requiring the agency to inform an inmate of the inmate's rights prior to interview by an immigration authority and whether the agency intends to comply with a hold request and prohibiting an agency from restricting access to educational programming and good conduct credits or determining an inmate's custodial status based upon the inmate's immigration status; and

6. Prohibits state employees other than law enforcement officers from inquiring into immigration status unless the inquiry is required by law or necessary to provide the service sought by the resident.