

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 366

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H.P. 272

House of Representatives, February 2, 2017

**An Act To Ensure 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 that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative LOCKMAN of Amherst.  
Cosponsored by Senator CUSHING of Penobscot and  
Representatives: ALLEY of Beals, AUSTIN of Gray, BRADSTREET of Vassalboro,  
HILLIARD of Belgrade, STROM of Pittsfield, WADSWORTH of Hiram, Senators: BRAKEY  
of Androscoggin, CYRWAY of Kennebec.

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 the United States Immigration and Customs  
15 Enforcement and the 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 any 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 any department,  
10 agency, bureau, commission, council or other entity established under the laws of the  
11 State.

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

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

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

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

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

27           B. Maintaining such information;

28           C. Exchanging such information with any other government entity or any federal  
29 agency;

30           D. Using such information to determine eligibility for any public benefit, service or  
31 license provided by federal law or a law of this State or its political subdivisions;

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

36           F. Using such information to confirm the identity of a person who is detained by a  
37 law enforcement agency.

1           **3. Compliance with and support for federal immigration laws.** All government  
2 entities shall fully comply with and to the full extent permitted by law support the  
3 enforcement of federal immigration law.

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

12           **5. Transportation of aliens.** Notwithstanding any other law, a law enforcement  
13 agency or official may securely transport an alien who, according to verification received  
14 by the agency or official from the Department of Homeland Security, is unlawfully  
15 present in the United States and who is in the law enforcement agency's or official's  
16 custody to a federal facility in this State or to any other point of transfer into federal  
17 custody that is outside the jurisdiction of the law enforcement agency or official. A law  
18 enforcement agency or official shall obtain judicial authorization before securely  
19 transporting an alien who is unlawfully present in the United States to a point of transfer  
20 that is outside of this State.

21           **§25004. Complaint process; penalties**

22           **1. Resident complaints and legislator requests submitted to Attorney General.**  
23 A resident of the State may submit a complaint to the Attorney General asserting a  
24 violation of section 25003 by a government entity. The complaint must be in writing and  
25 in a form and manner as prescribed by the Attorney General. A member of the  
26 Legislature may request the Attorney General to investigate and issue an opinion as to  
27 whether a government entity has violated section 25003.

28           **2. Attorney General investigation.** After receiving a complaint or request under  
29 subsection 1, the Attorney General shall investigate and determine whether a violation of  
30 section 25003 has occurred. If after the investigation the Attorney General determines  
31 that a violation of 25003 has occurred, the Attorney General shall issue an opinion that a  
32 violation has occurred. The Attorney General shall make the opinion available to the  
33 public. On the date the opinion is issued by the Attorney General, the government entity  
34 that violated section 25003 is ineligible to receive any money that would otherwise be  
35 remitted to it by the State. The ineligibility begins on the date the Attorney General's  
36 opinion is issued and continues until the Attorney General certifies that the violation has  
37 ceased.

38           **3. Copy of opinion and certification.** The Attorney General shall send to the  
39 government entity that was the subject of the investigation under subsection 2 and to the  
40 Treasurer of State a copy of any opinion issued pursuant to subsection 2 and any  
41 certification by the Attorney General that a violation of section 25003 has ceased.

