

AN ACT concerning immigration.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Illinois Way Forward Act.

Section 5. The Illinois TRUST Act is amended by changing Sections 5, 10, and 15 and by adding Sections 25 and 30 as follows:

(5 ILCS 805/5)

Sec. 5. Legislative purpose. Recognizing that State law does not currently grant State or local law enforcement the authority to enforce federal civil immigration laws, it is the intent of the General Assembly that nothing in this Act shall be construed to authorize any law enforcement agency or law enforcement official to enforce federal civil immigration law. The changes made to the definitions of immigration detainer and civil immigration warrant (formerly "non-judicial immigration warrant") by Section 10 of this amendatory Act of the 102nd General Assembly are declarative of existing law. This Act shall not be construed to prohibit or restrict any entity from sending to, or receiving from, the United States Department of Homeland Security or other federal, State, or local government entity information regarding the citizenship or immigration status of any individual under Sections 1373 and 1644 of Title 8 of the United States Code. Further, nothing in this Act shall prevent a law enforcement officer from contacting another law enforcement agency for the purposes of clarifying or confirming the civil or criminal nature and status of notifications or other records possible offenses in a record provided by the National Crime Information Center, or ~~detaining someone based on a notification in the Law Enforcement Agencies Data Administrative System unless it is clear that request is based on a non-judicial immigration warrant.~~

(Source: P.A. 100-463, eff. 8-28-17.)

(5 ILCS 805/10)

Sec. 10. Definitions. In this Act:

"Citizenship or immigration status" means all matters regarding citizenship of the United States or any other country or the authority to reside in or otherwise be present in the United States.

"Civil immigration warrant" means any document that is not approved or ordered by a judge that can form the basis for an individual's arrest or detention for a civil immigration enforcement purpose. "Civil immigration warrant" includes Form I-200 "Warrant for the Arrest of Alien", Form I-203 "Order to Detain or Release Alien", Form I-205 "Warrant of Removal/Deportation", Form I-286 "Notice of Custody Determination", any predecessor or successor form, and all warrants, hits, or requests contained in the "Immigration Violator File" of the FBI's National Crime Information Center

(NCIC) database. "Civil immigration warrant" does not include any criminal warrant.

"Contact information" means home address, work address, telephone number, electronic mail address, social media information, or any other personal identifying information that could be used as a means to contact an individual.

"Immigration agent" means an agent of federal Immigration and Customs Enforcement, federal Customs and Border Protection, or any similar or successor agency.

"Immigration detainer" means a request to a State or local law enforcement agency to provide notice of release or maintain custody of an individual based on an alleged violation of a civil immigration law, including detainers issued under Sections 1226 or 1357 of Title 8 of the United States Code or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. "Immigration detainer" includes Form I-247A
"Immigration Detainer - Notice of Action" and any predecessor or successor form. a document issued by an immigration agent that is not approved or ordered by a judge and requests a law enforcement agency or law enforcement official to provide notice of release or maintain custody of a person, including a detainer issued under Section 1226 or 1357 of Title 8 of the United States Code or Section 236.1 or 287.7 of Title 8 of the Code of Federal Regulations.

"Law enforcement agency" means an agency of the State or of a unit of local government charged with enforcement of State, county, or municipal laws or with managing custody of detained persons in the State.

"Law enforcement official" means any individual with the power to arrest or detain individuals, including law enforcement officers, county corrections officer, and others employed or designated by a law enforcement agency. "Law enforcement official" includes any probation officer.

"Non-judicial immigration warrant" means a Form I-200 or I-205 administrative warrant or any other immigration warrant or request that is not approved or ordered by a judge, including administrative warrants entered into the Federal Bureau of Investigation's National Crime Information Center database.

(Source: P.A. 100-463, eff. 8-28-17.)

(5 ILCS 805/15)

Sec. 15. Prohibition on enforcing federal civil immigration laws.

(a) A law enforcement agency or law enforcement official shall not detain or continue to detain any individual solely on the basis of any immigration detainer or civil non-judicial immigration warrant or otherwise comply with an immigration detainer or civil non-judicial immigration warrant.

(b) A law enforcement agency or law enforcement official shall not stop, arrest, search, detain, or continue to detain a person solely based on an individual's citizenship or immigration status.

(c) (Blank). This Section 15 does not apply if a law enforcement agency or law enforcement official is presented with a valid, enforceable federal warrant. Nothing in this Section 15 prohibits communication between federal agencies or officials and law enforcement agencies or officials.

(d) A law enforcement agency or law enforcement official acting in good faith in compliance with this Section who releases a person subject to an immigration detainer or civil non-judicial immigration warrant shall have immunity from any civil or criminal liability that might otherwise occur as a result of making the release, with the exception of willful or wanton misconduct.

(e) A law enforcement agency or law enforcement official may not inquire about or investigate the citizenship or immigration status or place of birth of any individual in the agency or official's custody or who has otherwise been stopped or detained by the agency or official. Nothing in this subsection shall be construed to limit the ability of a law enforcement agency or law enforcement official, pursuant to State or federal law, to notify a person in the law enforcement agency's custody about that person's right to communicate with consular officers from that person's country of nationality, or facilitate such communication, in accordance with the Vienna Convention on Consular Relations or other bilateral agreements. Nothing in this subsection shall be construed to limit the ability of a law enforcement agency or law enforcement official to request evidence of citizenship or immigration status pursuant to the Firearm Owners Identification Card Act, the Firearm Concealed Carry Act, Article 24 of the Criminal Code of 2012, or 18 United States Code Sections 921 through 931.

(f) Unless otherwise limited by federal law, a law enforcement agency or law enforcement official may not deny services, benefits, privileges, or opportunities to an individual in custody or under probation status, including, but not limited to, eligibility or placement in a lower custody classification, educational, rehabilitative, or diversionary programs, on the basis of the individual's citizenship or immigration status, the issuance of an immigration detainer or civil immigration warrant against the individual, or the individual being in immigration removal proceedings.

(g)(1) No law enforcement agency, law enforcement official, or any unit of State or local government may enter into or renew any contract, intergovernmental service agreement, or any other agreement to house or detain individuals for federal civil immigration violations.

(2) Any law enforcement agency, law enforcement official, or unit of State or local government with an existing contract, intergovernmental agreement, or other agreement, whether in whole or in part, that is utilized to house or detain individuals for civil immigration violations shall exercise the termination provision in the agreement as applied to housing or detaining individuals for civil immigration violations no later than January 1, 2022.

(h) Unless presented with a federal criminal warrant, or otherwise required by federal law, a law enforcement agency or official may not:

(1) participate, support, or assist in any capacity with an immigration agent's enforcement operations, including any collateral assistance such as coordinating an arrest in a courthouse or other public facility, providing use of any equipment, transporting any individuals, or establishing a security or traffic perimeter surrounding such operations, or any other on-site support;

(2) give any immigration agent access, including by telephone, to any individual who is in that agency's custody;

(3) transfer any person into an immigration agent's custody;

(4) permit immigration agents use of agency facilities or equipment, including any agency electronic databases not available to the public, for investigative interviews or other investigative or immigration enforcement purpose;

(5) enter into or maintain any agreement regarding

direct access to any electronic database or other data-sharing platform maintained by any law enforcement agency, or otherwise provide such direct access to the U.S. Immigration and Customs Enforcement, United States Customs and Border Protection or any other federal entity enforcing civil immigration violations;

(6) provide information in response to any immigration agent's inquiry or request for information regarding any individual in the agency's custody; or

(7) provide to any immigration agent information not otherwise available to the public relating to an individual's release or contact information, or otherwise facilitate for an immigration agent to apprehend or question an individual for immigration enforcement.

(i) Nothing in this Section shall preclude a law enforcement official from otherwise executing that official's duties in investigating violations of criminal law and cooperating in such investigations with federal and other law enforcement agencies (including criminal investigations conducted by federal Homeland Security Investigations (HSI)) in order to ensure public safety.

(Source: P.A. 100-463, eff. 8-28-17.)

(5 ILCS 805/25 new)

Sec. 25. Reporting requirements.

(a) In order to ensure compliance with this Act, starting on the effective date of this amendatory Act of the 102nd General Assembly, law enforcement agencies shall submit a report annually to the Attorney General. This report shall include:

(1) Any requests from the United States Department of Homeland Security, including, but not limited to, Immigration and Customs and Enforcement, with respect to participation, support, or assistance in any immigration agent's civil enforcement operation, and any documentation regarding how the request was addressed, provided that if an agency does not receive any such requests during a reporting period, the agency shall certify and report that it received no such requests;

(2) All immigration detainers or civil immigration warrants received by the law enforcement agency, provided that if an agency does not receive any such detainers or warrants during a reporting period, the agency shall certify and report that it received no such detainers or warrants. The reports shall include:

(A) the date when the immigration detainer or civil immigration warrant was received;

(B) the date and time the individual subject to the immigration detainer or civil immigration warrant posted criminal bail, if applicable;

(C) whether the individual subject to the immigration detainer or civil immigration warrant was released or transferred;

(D) the date and time the individual was released or transferred; and

(E) if the individual is transferred, to which governmental agency's custody.

(b) Law enforcement agencies shall not include names or other personally identifying information in any reports required under this Section.

(5 ILCS 805/30 new)

Sec. 30. Attorney General enforcement provisions. In order

to ensure compliance with this Act:

(a) The Attorney General shall have authority to conduct investigations into violations of this Act. The Attorney General may: (1) require a law enforcement agency, law enforcement official, or any other person or entity to file a statement or report in writing under oath or otherwise, as to all information the Attorney General may consider necessary; (2) examine under oath any law enforcement official or any other person alleged to have participated in or with knowledge of the alleged violation; or (3) issue subpoenas, obtain records, conduct hearings, or take any other actions in aid of any investigation. In the event a law enforcement agency, law enforcement official, or other person or entity fails to comply, in whole or in part, with a subpoena or other investigative request issued pursuant to this paragraph, the Attorney General may compel compliance through an action in the circuit court.

(b) Upon his or her own information or upon the complaint of any person, the Attorney General may maintain an action for declaratory, injunctive or any other equitable relief in the circuit court against any law enforcement agency, law enforcement official, or other person or entity who violates any provision of this Act. These remedies are in addition to, and not in substitution for, other available remedies.

Section 10. The Voices of Immigrant Communities Empowering Survivors (VOICES) Act is amended by changing Section 10 and by adding Sections 11, 20, 25, and 30 as follows:

(5 ILCS 825/10)

Sec. 10. Certifications for victims of qualifying criminal activity.

(a) The head of each certifying agency shall designate an official or officials in supervisory roles, either within the agency or, by agreement with another agency with concurrent jurisdiction over the geographic area or subject matter covered by that agency, within that other agency. Designated officials may not be members of a collective bargaining unit represented by a labor organization, unless the official is an attorney or is employed in an agency in which all supervisory officials are members of a collective bargaining unit.

Certifying officials shall:

(1) respond to requests for completion of certification forms received by the agency, as required by this Section; and

(2) make information regarding the agency's procedures for certification requests publicly available for victims of qualifying criminal activity and their representatives.

(b) Any person seeking completion of a certification form shall first submit a request for completion of the certification form to the certifying official for any certifying agency that detected, investigated, or prosecuted the criminal activity upon which the request is based.

(c) A request for completion of a certification form under this Section may be submitted by a representative of the person seeking the certification form, including, but not limited to, an attorney, accredited representative, or domestic violence or sexual assault services provider.

(d) Upon receiving a request for completion of a certification form, a certifying official shall complete the certification form for any victim of qualifying criminal activity. In completing the certification form, there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or

investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. The certifying official shall fully complete and sign the certification form and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity. If the certifying official cannot determine that the applicant is a victim of qualifying criminal activity, the certifying official may provide written notice to the person or the person's representative explaining why the available evidence does not support a finding that the person is a victim of qualifying criminal activity. The certifying official shall complete the certification form and provide it to the person within 90 business days of receiving the request, except:

(1) if the person making the request for completion of the certification form is in federal immigration removal proceedings or detained, the certifying official shall complete and provide the certification form to the person no later than 21 business days after the request is received by the certifying agency;

(2) if the children, parents, or siblings of the person making the request for completion of the certification form would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code by virtue of the person's children having reached the age of 21 years, the person having reached the age of 21 years, or the person's sibling having reached the age of 18 years within 90 business days from the date that the certifying official receives the certification request, the certifying official shall complete and provide the certification form to the person no later than 21 business days after the request is received by the certifying agency;

(3) if the person's children, parents, or siblings under paragraph (2) of this subsection (d) would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code in less than 21 business days of receipt of the certification request, the certifying official shall complete and provide a certification form to the person within 5 business days; or

(4) a certifying official may extend the time period by which it must complete and provide the certification form to the person as required under this subsection (d) only upon written agreement with the person or person's representative.

Requests for expedited completion of a certification form under paragraphs (1), (2), and (3) of this subsection (d) shall be affirmatively raised by the person or that person's representative in writing to the certifying agency and shall establish that the person is eligible for expedited review.

(e) A certifying official who issued an initial certification form shall complete and reissue a certification form within 90 business days of receiving a request from a victim to reissue. If the victim seeking recertification has a deadline to respond to a request for evidence from United States Citizenship and Immigration Services, the certifying official shall complete and issue the form no later than 21 business days after the request is received by the certifying official. Requests for expedited recertification shall be

affirmatively raised by the victim or victim's representative in writing and shall establish that the victim is eligible for expedited review. A certifying official may extend the deadline by which he or she will complete and reissue the certification form only upon written agreement with the victim or victim's representative.

(f) Notwithstanding any other provision of this Section, a certifying official's completion of a certification form shall not be considered sufficient evidence that an applicant for a U or T visa has met all eligibility requirements for that visa and completion of a certification form by a certifying official shall not be construed to guarantee that the victim will receive federal immigration relief. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U or T visa. Completion of a certification form by a certifying official merely verifies factual information relevant to the federal immigration benefit sought, including information relevant for federal immigration officials to determine eligibility for a U or T visa. By completing a certification form, the certifying official attests that the information is true and correct to the best of the certifying official's knowledge. No provision in this Act limits the manner in which a certifying officer or certifying agency may describe whether the person has cooperated or been helpful to the agency or provide any additional information the certifying officer or certifying agency believes might be relevant to a federal immigration officer's adjudication of a U or T visa application. If, after completion of a certification form, the certifying official later determines the person was not the victim of qualifying criminal activity or the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, the certifying official may notify United States Citizenship and Immigration Services in writing.

(g) A certifying official or agency receiving requests for completion of certification forms shall not disclose the immigration status of a victim or person requesting the certification form, except to comply with federal law or State law, legal process, or if authorized, by the victim or person requesting the certification form.

(Source: P.A. 100-1115, eff. 1-1-19.)

(5 ILCS 825/11 new)

Sec. 11. Denials.

(a) If the certifying official cannot determine that the requester is a victim of a qualifying criminal activity, the certifying official shall provide written notice to the person or the person's representative explaining why the available evidence does not support a finding that the person is a victim of qualifying criminal activity. The certifying official shall submit the notice to the address provided in the request and shall provide contact information should the requester desire to appeal the decision. The certifying agency or certifying official shall accept all appeals and must respond to the appeals within 30 business days.

(b) Notwithstanding subsection (a), no requester is required to exhaust an administrative appeal under subsection (a) before filing a mandamus action or seeking other equitable relief in circuit court for a completed certification form required under Section 10.

(5 ILCS 825/20 new)

Sec. 20. Reporting requirements.

(a) In order to ensure compliance with this Act, starting

on the effective date of this amendatory Act of the 102nd General Assembly, law enforcement agencies shall submit a report annually to the Attorney General. This report shall include the following information regarding any requests for completion of a certification form under Section 10 of this Act:

(1) the date of receipt of such request; and

(2) the date on which the law enforcement agency provided the completed certification form to the requester or provided written notice explaining why the available evidence does not support a finding that the requester is a victim of qualifying criminal activity.

If an agency receives no requests for completion of a certification form during a reporting period, the agency shall certify and report that it received no such requests.

(b) Law enforcement agencies shall not include names or other personally identifying information in any reports required under this Section.

(5 ILCS 825/25 new)

Sec. 25. Training. Each certifying agency shall arrange for regular training for officials designated under subsection (a) of Section 10 of this Act regarding all requirements of this Act.

(5 ILCS 825/30 new)

Sec. 30. Attorney General enforcement provisions. In order to ensure compliance with this Act:

(a) The Attorney General shall have authority to conduct investigations into violations of this Act. The Attorney General may:

(1) require a law enforcement agency, law enforcement official, or any other person or entity to file a statement or report in writing under oath or otherwise, as to all information the Attorney General may consider necessary;

(2) examine under oath any law enforcement official or any other person alleged to have participated in or with knowledge of the alleged violation; or

(3) issue subpoenas, obtain records, conduct hearings, or take any other actions in aid of any investigation. In the event a law enforcement agency, law enforcement official, or other person or entity fails to comply, in whole or in part, with a subpoena or other investigative request issued pursuant to this paragraph, the Attorney General may compel compliance through an action in the circuit court.

(b) Upon his or her own information or upon the complaint of any person, the Attorney General may maintain an action for declaratory, injunctive or any other equitable relief in the circuit court against any law enforcement agency, law enforcement official, or other person or entity who violates any provision of this Act. These remedies are in addition to, and not in substitution for, other available remedies.

Section 97. Severability. If any provision of this Act or its application to any person or circumstances is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

Section 99. Effective date. This Act takes effect upon

becoming law.

Effective Date: 8/2/2021