

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 23-0146.01 Nicole Myers x4326

HOUSE BILL 23-1100

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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House Committees
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A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON GOVERNMENTAL PARTICIPATION IN**
102 **CIVIL IMMIGRATION DETENTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The United States immigration and customs enforcement, the federal agency responsible for overseeing and implementing policies related to immigration detention, contracts out a portion of its detention capacity to state and local governments. State and local governments may then subcontract with prisons or immigration detention facilities that are owned, managed, or operated by private entities to house or detain

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
3rd Reading Unamended
February 27, 2023

HOUSE
Amended 2nd Reading
February 24, 2023

individuals for federal civil immigration purposes.

Beginning on January 1, 2024, the bill prohibits the state and any local government in the state (governmental entity) from:

- Entering into an agreement for the detention of individuals in an immigration detention facility that is owned, managed, or operated by a private entity;
- Selling any government-owned property for the purpose of establishing an immigration detention facility that is or will be owned, managed, or operated by a private entity;
- Paying any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated by a private entity;
- Receiving any payment related to the detention of individuals in an immigration detention facility that is owned, managed, or operated by a private entity; or
- Giving financial incentives or benefits to a private entity in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated by a private entity.

In addition, beginning on January 1, 2024, the bill prohibits a governmental entity from entering into or renewing an agreement for payment to house or detain individuals for federal civil immigration purposes (immigration detention agreement). The bill also requires a governmental entity with an existing immigration detention agreement to exercise the termination provision contained in the agreement by a specified date.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The management and operation of detention facilities for
5 immigrants involves functions that require unique training due to its civil
6 nature, the diverse languages and backgrounds of the population, and the
7 significant vulnerabilities of asylum seekers and others fleeing
8 persecution;

9 (b) Detention requires the exercise of coercive police powers over

1 individuals that should not be delegated to the private sector and that is
2 distinguishable from privatization in other areas of government;

3 (c) It is an inappropriate exercise of a state's police powers to
4 detain individuals for federal immigration purposes given its implication
5 on foreign relations; and

6 (d) Issues of liability, accountability, and cost warrant a
7 prohibition of the ownership, operation, or management of detention
8 facilities by private contractors within the state and a phasing out of state
9 and local officials' involvement in civil immigration detention to the
10 fullest extent permitted under state law.

11 (2) The general assembly further finds and declares that it is
12 necessary to adopt this act to prohibit state and local governments from
13 contracting for the management or operation of immigration detention
14 and from facilitating the operation of immigration detention facilities in
15 the state by private entities.

16 **SECTION 2.** In Colorado Revised Statutes, **add** article 76.7 to
17 title 24 as follows:

18 **ARTICLE 76.7**

19 **Prohibit State And Local Government**

20 **Involvement In Immigration Detention**

21 **24-76.7-101. Definitions.** AS USED IN THIS ARTICLE 76.7, UNLESS
22 THE CONTEXT OTHERWISE REQUIRES:

23 (1) "GOVERNMENTAL ENTITY" MEANS THE STATE, ANY UNIT OF
24 LOCAL GOVERNMENT, A COUNTY SHERIFF, OR ANY AGENCY, OFFICER,
25 EMPLOYEE, OR AGENT THEREOF.

26 (2) "IMMIGRATION DETENTION AGREEMENT" MEANS ANY
27 CONTRACT, INCLUDING BUT NOT LIMITED TO AN INTERGOVERNMENTAL

1 SERVICE AGREEMENT, OR PORTION THEREOF FOR PAYMENT TO A
2 GOVERNMENTAL ENTITY TO DETAIN INDIVIDUALS FOR FEDERAL CIVIL
3 IMMIGRATION PURPOSES. FOR A CONTRACT OR INTERGOVERNMENTAL
4 SERVICE AGREEMENT THAT IS ONLY IN PART FOR THE DETENTION OF
5 INDIVIDUALS FOR FEDERAL IMMIGRATION OFFICIALS, THIS TERM ONLY
6 APPLIES TO THE CIVIL IMMIGRATION DETENTION PORTION OF THE
7 CONTRACT.

8 (3) "IMMIGRATION DETENTION FACILITY" MEANS ANY BUILDING,
9 FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR
10 DETAIN INDIVIDUALS FOR FEDERAL IMMIGRATION OFFICIALS.

11 **24-76.7-102. Governmental entities - agreements with**
12 **privately owned immigration detention facilities - prohibition.**

13 (1) BEGINNING ON JANUARY 1, 2024, A GOVERNMENTAL ENTITY SHALL
14 NOT:

15 (a) ENTER INTO AN AGREEMENT OF ANY KIND FOR THE DETENTION
16 OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY THAT IS OWNED,
17 MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

18 (b) SELL ANY PUBLIC OR GOVERNMENT-OWNED PROPERTY OR
19 BUILDING FOR THE PURPOSE OF ESTABLISHING AN IMMIGRATION
20 DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR
21 OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

22 (c) PAY, REIMBURSE, SUBSIDIZE, OR DEFRAID IN ANY WAY ANY
23 COSTS RELATED TO THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT,
24 OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION
25 DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR
26 OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

27 (d) RECEIVE PER DIEM, PER DETAINEE, OR ANY OTHER PAYMENT

1 RELATED TO THE DETENTION OF INDIVIDUALS IN AN IMMIGRATION
2 DETENTION FACILITY THAT IS OWNED, MANAGED, OR OPERATED, IN WHOLE
3 OR IN PART, BY A PRIVATE ENTITY; OR

4 (e) OTHERWISE GIVE ANY FINANCIAL INCENTIVE OR BENEFIT TO
5 ANY PRIVATE ENTITY OR PERSON IN CONNECTION WITH THE SALE,
6 PURCHASE, CONSTRUCTION, DEVELOPMENT, OWNERSHIP, MANAGEMENT,
7 OR OPERATION OF AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL
8 BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE
9 ENTITY.

10 (2) NOTHING IN THIS ARTICLE 76.7 SHALL BE CONSTRUED TO
11 PROHIBIT A GOVERNMENTAL ENTITY FROM PROVIDING HEALTH AND
12 SAFETY RESOURCES TO INDIVIDUALS WHO ARE BEING DETAINED FOR
13 IMMIGRATION PURPOSES.

14 (3) NOTHING IN THIS ARTICLE 76.7 SHALL BE CONSTRUED TO
15 PROHIBIT ANY UNIT OF LOCAL GOVERNMENT FROM CONTRACTING FOR
16 HEALTH, UTILITY, AND SANITATION SERVICES TO IMMIGRATION DETENTION
17 FACILITIES.

18 **24-76.7-103. Governmental entities - eliminate involvement in**
19 **immigration detention.** (1) BEGINNING ON JANUARY 1, 2024, A
20 GOVERNMENTAL ENTITY SHALL NOT ENTER INTO OR RENEW AN
21 IMMIGRATION DETENTION AGREEMENT.

22 (2) A GOVERNMENTAL ENTITY WITH AN EXISTING IMMIGRATION
23 DETENTION AGREEMENT ON JANUARY 1, 2024, SHALL EXERCISE ANY
24 TERMINATION PROVISION CONTAINED IN THE AGREEMENT NO LATER THAN
25 JANUARY 1, 2024. IF AN EXISTING IMMIGRATION DETENTION AGREEMENT
26 DOES NOT CONTAIN A TERMINATION PROVISION THAT THE GOVERNMENTAL
27 ENTITY CAN EXERCISE BY JANUARY 1, 2024, THEN THE GOVERNMENTAL

1 ENTITY SHALL EXERCISE THE TERMINATION PROVISION AS SOON AS
2 POSSIBLE WITHIN THE TERMS OF THE IMMIGRATION DETENTION
3 AGREEMENT.

4 **SECTION 3. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly; except
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V
8 of the state constitution against this act or an item, section, or part of this
9 act within such period, then the act, item, section, or part will not take
10 effect unless approved by the people at the general election to be held in
11 November 2024 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.