



General Assembly

Substitute Bill No. 992

January Session, 2019



AN ACT CONCERNING THE TRUST ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-192h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) For the purposes of this section:

4 (1) "Administrative warrant" means a warrant, notice to appear,
5 removal order or warrant of deportation issued by an agent of a
6 federal agency charged with the enforcement of immigration laws or
7 the security of the borders, including ICE and the United States
8 Customs and Border Protection, but does not include a warrant issued
9 or signed by a judicial officer.

10 [(1)] (2) "Civil immigration detainer" means a [detainer request
11 issued pursuant to 8 CFR 287.7;] request from a federal immigration
12 authority to a local or state law enforcement agency for a purpose
13 including, but not limited to:

14 (A) Detaining an individual suspected of violating a federal
15 immigration law or who has been issued a final order of removal;

16 (B) Facilitating the (i) arrest of an individual by a federal
17 immigration authority, or (ii) transfer of an individual to the custody

18 of a federal immigration authority;

19 (C) Providing notification of the release date and time of an
20 individual in custody; and

21 (D) Notifying a law enforcement officer, through DHS Form I-247A,
22 or any other form used by the United States Department of Homeland
23 Security or any successor agency thereto, of the federal immigration
24 authority's intent to take custody of an individual;

25 [(2) "Convicted of a felony" means that a person has been convicted
26 of a felony, as defined in section 53a-25, pursuant to a final judgment
27 of guilt entered by a court in this state or in a court of competent
28 jurisdiction within the United States upon a plea of guilty, a plea of
29 nolo contendere or a finding of guilty by a jury or the court
30 notwithstanding any pending appeal or habeas corpus proceeding
31 arising from such judgment;]

32 (3) "Confidential information" means any information obtained and
33 maintained by a law enforcement agency relating to (A) an
34 individual's (i) sexual orientation, (ii) status as a victim of domestic
35 violence or sexual assault, or (iii) immigration status, (B) whether such
36 individual is a (i) crime witness, or (ii) recipient of public assistance, or
37 (C) an individual's income tax or other financial records, including, but
38 not limited to, Social Security numbers;

39 [(3)] (4) "Federal immigration authority" means any officer,
40 employee or other person otherwise paid by or acting as an agent of
41 [United States Immigration and Customs Enforcement] ICE or any
42 division thereof or any officer, employee or other person otherwise
43 paid by or acting as an agent of the United States Department of
44 Homeland Security or any successor agency thereto who is charged
45 with enforcement of the civil provisions of the Immigration and
46 Nationality Act; [and]

47 (5) "ICE" means United States Immigration and Customs
48 Enforcement or any successor agency thereto;

49 (6) "ICE access" means any of the following actions taken by a law
50 enforcement officer with respect to an individual who is stopped by a
51 law enforcement officer with or without the individual's consent,
52 arrested, detained or otherwise under the control of a law enforcement
53 official or agency:

54 (A) Responding to a civil immigration detainer or request for
55 notification pursuant to subparagraph (B) of this subdivision
56 concerning such individual;

57 (B) Providing notification to a federal immigration authority that
58 such individual is being or will be released at a certain date and time
59 through data sharing or otherwise;

60 (C) Providing a federal immigration authority nonpublicly available
61 information concerning such individual regarding release date or time,
62 home address or work address, whether obtained through a computer
63 database or otherwise;

64 (D) Allowing a federal immigration authority to interview such
65 individual under the control of the law enforcement agency;

66 (E) Allowing a federal immigration authority to use a facility or
67 resources in the control of a law enforcement agency to conduct
68 interviews, administrative proceedings or other immigration
69 enforcement activities concerning such individual; or

70 (F) Providing a federal immigration authority information
71 regarding dates and times of probation or parole supervision or any
72 other information related to such individual's compliance with the
73 terms of probation or parole;

74 (7) "Judicial officer" means any judge of the state or federal judicial
75 branches other than an immigration judge;

76 (8) "Law enforcement agency" means any agency for which a law
77 enforcement officer is an employee of or otherwise paid by or acting as

78 an agent of;

79 [(4)] (9) "Law enforcement officer" means:

80 (A) Each officer, employee or other person otherwise paid by or
81 acting as an agent of the Department of Correction;

82 (B) Each officer, employee or other person otherwise paid by or
83 acting as an agent of a municipal police department;

84 (C) Each officer, employee or other person otherwise paid by or
85 acting as an agent of the Division of State Police within the
86 Department of Emergency Services and Public Protection; and

87 (D) Each judicial marshal, [and] state marshal, [.] bail commissioner
88 and adult probation officer; and

89 (10) "School police or security department" means any police or
90 security department of (A) the constituent units of the state system of
91 higher education, as defined in section 10a-1, (B) a public school, or (C)
92 a local or regional school district.

93 (b) No law enforcement officer [who receives a civil immigration
94 detainer with respect to an individual who is in the custody of the law
95 enforcement officer shall detain such] or employee of a school police or
96 security department shall:

97 (1) Detain an individual pursuant to [such] a civil immigration
98 detainer unless the [law enforcement official determines that the
99 individual:] detainer is accompanied by a warrant issued or signed by
100 a judicial officer;

101 [(1) Has been convicted of a felony;

102 (2) Is subject to pending criminal charges in this state where bond
103 has not been posted;

104 (3) Has an outstanding arrest warrant in this state;

105 (4) Is identified as a known gang member in the database of the
106 National Crime Information Center or any similar database or is
107 designated as a Security Risk Group member or a Security Risk Group
108 Safety Threat member by the Department of Correction;

109 (5) Is identified as a possible match in the federal Terrorist Screening
110 Database or similar database;

111 (6) Is subject to a final order of deportation or removal issued by a
112 federal immigration authority; or

113 (7) Presents an unacceptable risk to public safety, as determined by
114 the law enforcement officer.]

115 (2) Expend or use time, money, facilities, property, equipment,
116 personnel or other resources to communicate with a federal
117 immigration authority regarding the custody status or release of an
118 individual targeted by a civil immigration detainer, except as provided
119 in subsection (e) of this section;

120 (3) Arrest or detain an individual based on a civil immigration
121 detainer or an administrative warrant;

122 (4) Give a federal immigration authority access to interview an
123 individual who is in the custody of a law enforcement agency;

124 (5) Perform any function of a federal immigration authority,
125 whether pursuant to 8 USC 1357(g) or any other law, regulation,
126 agreement, contract or policy, whether formal or informal; or

127 (6) Expend or use time, money, facilities, property, equipment,
128 personnel or other resources to investigate, enforce or assist in the
129 investigation or enforcement of any federal program requiring
130 registration of an individual on the basis of race, gender, age, sexual
131 orientation, religion, country from which the individual has
132 immigrated or national or ethnic origin.

133 [(c) Upon determination by the law enforcement officer that such
134 individual is to be detained or released, the law enforcement officer
135 shall immediately notify United States Immigration and Customs
136 Enforcement. If the individual is to be detained, the law enforcement
137 officer shall inform United States Immigration and Customs
138 Enforcement that the individual will be held for a maximum of forty-
139 eight hours, excluding Saturdays, Sundays and federal holidays. If
140 United States Immigration and Customs Enforcement fails to take
141 custody of the individual within such forty-eight-hour period, the law
142 enforcement officer shall release the individual. In no event shall an
143 individual be detained for longer than such forty-eight-hour period
144 solely on the basis of a civil immigration detainer.]

145 (c) Prior to responding to a request for notification of an individual's
146 release date and time from custody of a law enforcement agency, the
147 law enforcement officer shall forward the request to the head of the
148 law enforcement agency for review.

149 (d) Any confidential information of an individual who comes into
150 contact with a law enforcement officer may be disclosed to a federal
151 immigration authority only if such disclosure is:

152 (1) Authorized in writing by the individual to whom the
153 information pertains, or by the parent or guardian of such individual if
154 the individual is a minor or not legally competent to consent to such
155 disclosure;

156 (2) Necessary in furtherance of a criminal investigation of potential
157 terrorism; or

158 (3) Otherwise required by law.

159 (e) (1) Upon receiving a civil immigration detainer, a law
160 enforcement agency shall provide a copy of the detainer to the affected
161 individual who is the subject of the detainer and inform the individual
162 whether the law enforcement agency intends to comply with the
163 detainer. If a law enforcement agency provides ICE with notification

164 that an individual is being, or will be released on a certain date, the
165 law enforcement agency shall promptly provide to the individual and
166 to the individual's attorney or one other individual who the individual
167 may designate, a copy of such notification as well as the reason, in
168 writing, that such law enforcement agency is complying with the
169 detainer.

170 (2) All records relating to ICE access maintained by law enforcement
171 agencies shall be deemed public records under the Freedom of
172 Information Act, as defined in section 1-200. Records relating to ICE
173 access include, but are not limited to, data maintained by the law
174 enforcement agency regarding the number and demographic data of
175 individuals to whom the agency has provided ICE access, the date ICE
176 access was provided to an individual, the type of ICE access provided
177 to an individual, the amount of resources expended on providing ICE
178 access and any communication between the law enforcement agency
179 and any federal immigration authority.

180 (3) Beginning January 1, 2020, the legislative body of any
181 municipality with a law enforcement agency that has provided ICE
182 access to an individual during the prior month shall provide to the
183 Office of Policy and Management, on an ongoing monthly basis, data
184 regarding the number and demographic data of individuals to whom
185 the law enforcement agency has provided ICE access, the date ICE
186 access was provided to an individual and whether the ICE access was
187 provided as part of compliance with a civil immigration detainer or
188 through other means. Data may be provided in the form of statistics or,
189 if statistics are not maintained, as individual records, provided
190 personally identifiable information is redacted.

191 (f) The Office of Policy and Management shall ensure that the
192 requirements of this section are disseminated to, and appropriate
193 training is provided for, all affected law enforcement agencies and
194 school police or security departments and employees and agents of
195 such law enforcement agencies and school police or security
196 departments. Such training may entail how law enforcement officers

197 and other officials performing similar duties will adhere to the
198 provisions of this section and how they will interact with crime
199 victims, potential criminal suspects and individuals cooperating with
200 law enforcement officers.

201 (g) No provision of this section shall be construed to provide,
202 expand or ratify the legal authority of any law enforcement agency to
203 detain an individual based on a civil immigration detainer request.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2019	54-192h
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Statement of Legislative Commissioners:

Throughout the bill, plural nouns and verbs were made singular and "person" was changed to "individual" for consistency. In Section 1(a)(2)(B), clause designators were added for clarity; in Section 1(a)(6), the introductory language was reorganized for clarity; in Section 1(a)(6)(A), a reference was added to Subparagraph (B) for clarity and Section 2(b)(4) was reorganized for clarity.

JUD *Joint Favorable Subst. -LCO*