



130th MAINE LEGISLATURE

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Legislative Document

No. 1378

H.P. 1012

House of Representatives, April 7, 2021

**An Act To Facilitate Compliance with Federal Immigration Law by
State and Local Government Entities**

Received by the Clerk of the House on April 5, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LYFORD of Eddington.

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

2 **Sec. 1. 5 MRSA Pt. 32** is enacted to read:

3 **PART 32**

4 **IMMIGRATION INFORMATION SHARING**

5 **CHAPTER 641**

6 **IMMIGRATION STATUS**

7 **§26001. Short title**

8 This chapter may be known and cited as "the Public Safety and Protection Act."

9 **§26002. 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 United States Immigration and Customs Enforcement
15 and 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 enforcement
21 agency to provide notice of release of and to detain an individual based on an inquiry into
22 immigration status or an alleged violation of a civil immigration law, including detainers
23 issued pursuant to 8 Code of Federal Regulations, Section 287.7 or 236.1 or on a
24 Department of Homeland Security form requesting voluntary notification of a pending
25 release of a person identified by the Department of Homeland Security as a suspected
26 priority alien or requesting a law enforcement agency to voluntarily take action to maintain
27 custody of a detained person.

28 **4. Inmate.** "Inmate" means an individual in the custody of a law enforcement agency.

29 **5. Law enforcement agency.** "Law enforcement agency" means an agency in the
30 State charged with enforcement of state, county, municipal or federal laws or with
31 managing custody of detained persons in the State and includes but is not limited to
32 municipal police departments; sheriffs' departments; the State Police; if a university or
33 college has an organized police department, the campus police; and the Department of
34 Public Safety.

35 **6. Law enforcement agency official.** "Law enforcement agency official" means a
36 person having official duties as a representative, agent or employee of a law enforcement
37 agency.

1 **7. Local government entity.** "Local government entity" means a county, municipality
2 or other political subdivision of the State.

3 **8. Local government entity official.** "Local government entity official" means a
4 person having official duties as a representative, agent or employee of a local government
5 entity.

6 **9. State government entity.** "State government entity" means a department, agency,
7 bureau, commission, council or other entity established under the laws of the State.

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

11 **§26003. Prohibitions concerning sharing and use of information; compliance with**
12 **federal law and law enforcement**

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

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

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

23 B. Maintaining such information;

24 C. Exchanging such information with another government entity or a federal agency;

25 D. Using such information to determine eligibility for a public benefit, service or
26 license provided by federal law or a law of the State or its political subdivisions;

27 E. Using such information to verify a claim of residence or domicile if a determination
28 of residence or domicile is required under federal law or a law of the State or its
29 political subdivisions or under a judicial order issued pursuant to a civil or criminal
30 proceeding in the State; or

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

33 **3. Compliance with and support for federal immigration laws.** A government
34 entity shall fully comply with and to the full extent permitted by law support the
35 enforcement of federal immigration law.

36 **4. Enforcement of federal immigration laws.** A government entity may not limit or
37 restrict the enforcement of federal immigration law, including, but not limited to, limiting
38 or restricting a government entity from complying with an immigration detainer, limiting
39 or restricting a government entity from providing a federal immigration official access to
40 an inmate for an interview, limiting or restricting a government entity from initiating an
41 immigration status investigation or limiting or restricting a government entity from
42 providing a federal immigration official with the incarceration status or release date of an
43 inmate in custody of a government entity.

1 **§26004. Complaint process; appeals**

2 **1. Resident complaints and Legislator requests submitted to Attorney General.**

3 A resident of the State may submit a complaint to the Attorney General asserting a violation
4 of section 26003 by a government entity. The complaint must be in writing and in a form
5 and manner as prescribed by the Attorney General. A member of the Legislature may
6 request that the Attorney General investigate and issue an opinion as to whether a
7 government entity has violated section 26003.

8 **2. Attorney General investigation.** After receiving a complaint or request under
9 subsection 1, the Attorney General shall investigate and determine whether a violation of
10 section 26003 has occurred. If after the investigation the Attorney General determines that
11 a violation of section 26003 has occurred, the Attorney General shall issue an opinion that
12 a violation has occurred. The Attorney General shall make the opinion available to the
13 public.

14 **3. Review of Attorney General findings.** If the Attorney General issues an opinion
15 pursuant to subsection 2 that a government entity has violated section 26003, the
16 government entity has 30 days from the date the opinion was issued to contest the finding
17 in Superior Court.

18 A. If the Superior Court affirms the Attorney General's findings, the court shall
19 immediately enjoin the policy or practice in violation of section 26003. A government
20 entity that fails to comply with an injunction is subject to a fine of \$500 for each day
21 the policy or practice of the government entity remains in effect.

22 B. If the Superior Court overturns the Attorney General's findings, the Attorney
23 General shall immediately certify that the government entity is in compliance with
24 section 26003.

25 **§26005. Duty to report**

26 A state government entity official, local government entity official, law enforcement
27 agency official or person holding public office shall report a violation of section 26003 by
28 submitting a complaint to the Attorney General pursuant to section 26004, subsection 1. A
29 person who reports a violation under this section is protected under the Whistleblowers'
30 Protection Act.

31 **§26006. Implementation**

32 This chapter must be implemented in a manner consistent with federal laws regulating
33 immigration, protecting the civil rights of all persons and respecting the privileges and
34 immunities of citizens of the United States. In complying with the requirements of this
35 chapter, a government entity may not consider an individual's race, color or national origin,
36 except to the extent permitted by the United States Constitution and the Constitution of
37 Maine.

38 **SUMMARY**

39 This bill establishes prohibitions concerning restricting the sharing and use of
40 immigration and citizenship information. It prohibits restricting the enforcement of federal
41 immigration law. It establishes a complaint process and a duty to report.

1 This bill also provides that if the Attorney General, upon investigation, determines that
2 a government entity is violating these prohibitions, the Attorney General must issue an
3 opinion stating that finding. The government entity has 30 days to appeal the finding to
4 the Superior Court. If the Superior Court agrees with the Attorney General, the court must
5 immediately enjoin the policy or practice. The government entity that continues the policy
6 or practice is subject to a \$500 fine for each day the policy or practice remains in effect. If
7 the Superior Court disagrees with the Attorney General, the Attorney General must
8 immediately certify that the government entity is in compliance with the law.