



General Assembly

January Session, 2019

Amendment

LCO No. 8439



Offered by:
SEN. KISSEL, 7th Dist.

To: Subst. Senate Bill No. 992

File No. 535

Cal. No. 244

"AN ACT CONCERNING THE TRUST ACT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 54-192h of the general statutes is repealed and the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

5 (a) For the purposes of this section:

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

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

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

14 of a federal immigration authority;

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

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

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

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

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

42 (4) "ICE" means United States Immigration and Customs
43 Enforcement or any successor agency thereto;

44 (5) "ICE access" means any of the following actions taken by a law
45 enforcement officer with respect to an individual who is stopped by a
46 law enforcement officer with or without the individual's consent,
47 arrested, detained or otherwise under the control of a law enforcement
48 official or agency:

49 (A) Responding to a civil immigration detainer or request for
50 notification pursuant to subparagraph (B) of this subdivision
51 concerning such individual;

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

55 (C) Providing a federal immigration authority nonpublicly available
56 information concerning such individual regarding release date or time,
57 home address or work address, whether obtained through a computer
58 database or otherwise;

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

61 (E) Allowing a federal immigration authority to use a facility or
62 resources in the control of a law enforcement agency to conduct
63 interviews, administrative proceedings or other immigration
64 enforcement activities concerning such individual; or

65 (F) Providing a federal immigration authority information
66 regarding dates and times of probation or parole supervision or any
67 other information related to such individual's compliance with the
68 terms of probation or parole;

69 (6) "Law enforcement agency" means any agency for which a law
70 enforcement officer is an employee of or otherwise paid by or acting as
71 an agent of; and

72 [(4)] (7) "Law enforcement officer" means:

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

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

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

80 (D) Each judicial marshal, [and] state marshal, bail commissioner
81 and adult probation officer.

82 (b) No law enforcement officer who receives a civil immigration
83 detainer with respect to an individual who is in the custody of the law
84 enforcement officer shall detain such individual pursuant to such civil
85 immigration detainer unless the law enforcement official determines
86 that the individual [:]

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

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

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

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

95 (5) Is] is identified as a possible match in the federal Terrorist
96 Screening Database [or similar database;] or the No Fly List,
97 established and maintained by the United States Department of
98 Homeland Security.

99 [(6) Is subject to a final order of deportation or removal issued by a
100 federal immigration authority; or

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

103 (c) Upon determination by the law enforcement officer that such
104 individual is to be detained or released, the law enforcement officer
105 shall immediately notify United States Immigration and Customs
106 Enforcement. If the individual is to be detained, the law enforcement
107 officer shall inform United States Immigration and Customs
108 Enforcement that the individual will be held for a maximum of forty-
109 eight hours, excluding Saturdays, Sundays and federal holidays. If
110 United States Immigration and Customs Enforcement fails to take
111 custody of the individual within such forty-eight-hour period, the law
112 enforcement officer shall release the individual. In no event shall an
113 individual be detained for longer than such forty-eight-hour period
114 solely on the basis of a civil immigration detainer.

115 (d) Prior to responding to a request for notification of an
116 individual's release date and time from custody of a law enforcement
117 agency, the law enforcement officer shall forward the request to the
118 head of the law enforcement agency for review.

119 (e) Any confidential information of an individual who comes into
120 contact with a law enforcement officer may be disclosed to a federal
121 immigration authority only if such disclosure is:

122 (1) Authorized in writing by the individual to whom the
123 information pertains, or by the parent or guardian of such individual if
124 the individual is a minor or not legally competent to consent to such
125 disclosure;

126 (2) Necessary in furtherance of a criminal investigation of potential
127 terrorism; or

128 (3) Otherwise required by law.

129 (f) (1) Upon receiving a civil immigration detainer, a law
130 enforcement agency shall provide a copy of the detainer to the affected

131 individual who is the subject of the detainer and inform the individual
132 whether the law enforcement agency intends to comply with the
133 detainer. If a law enforcement agency provides ICE with notification
134 that an individual is being, or will be released on a certain date, the
135 law enforcement agency shall promptly provide to the individual and
136 to the individual's attorney or one other individual who the individual
137 may designate, a copy of such notification as well as the reason, in
138 writing, that such law enforcement agency is complying with the
139 detainer.

140 (2) All records relating to ICE access maintained by law enforcement
141 agencies shall be deemed public records under the Freedom of
142 Information Act, as defined in section 1-200. Records relating to ICE
143 access include, but are not limited to, data maintained by the law
144 enforcement agency regarding the number and demographic data of
145 individuals to whom the agency has provided ICE access, the date ICE
146 access was provided to an individual, the type of ICE access provided
147 to an individual, the amount of resources expended on providing ICE
148 access and any communication between the law enforcement agency
149 and any federal immigration authority.

150 (3) Beginning January 1, 2020, the legislative body of any
151 municipality with a law enforcement agency that has provided ICE
152 access to an individual during the prior month shall provide to the
153 Office of Policy and Management, on an ongoing monthly basis, data
154 regarding the number and demographic data of individuals to whom
155 the law enforcement agency has provided ICE access, the date ICE
156 access was provided to an individual and whether the ICE access was
157 provided as part of compliance with a civil immigration detainer or
158 through other means. Data may be provided in the form of statistics or,
159 if statistics are not maintained, as individual records, provided
160 personally identifiable information is redacted.

161 (g) The Office of Policy and Management shall ensure that the
162 requirements of this section are disseminated to, and appropriate
163 training is provided for, all affected law enforcement agencies and

164 school police or security departments and employees and agents of
165 such law enforcement agencies and school police or security
166 departments. Such training may entail how law enforcement officers
167 and other officials performing similar duties will adhere to the
168 provisions of this section and how they will interact with crime
169 victims, potential criminal suspects and individuals cooperating with
170 law enforcement officers."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	54-192h