



General Assembly

January Session, 2019

Amendment

LCO No. 8324



Offered by:
SEN. FASANO, 34th 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 Section 54-192h of the general statutes is repealed and the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 (3) "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)] (4) "Federal immigration authority" means any officer,
36 employee or other person otherwise paid by or acting as an agent of
37 [United States Immigration and Customs Enforcement] ICE or any
38 division thereof or any officer, employee or other person otherwise
39 paid by or acting as an agent of the United States Department of
40 Homeland Security or any successor agency thereto who is charged
41 with enforcement of the civil provisions of the Immigration and
42 Nationality Act; [and]

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

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

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

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

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

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

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

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

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

73 [(4)] (8) "Law enforcement officer" means:

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

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

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

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

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

88 (1) Has been convicted of a felony;

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

91 [(3)] (2) Has an outstanding arrest warrant in this state;

92 [(4)] (3) Is identified as a known gang member in the database of the
93 National Crime Information Center or any similar database or is
94 designated as a Security Risk Group member or a Security Risk Group
95 Safety Threat member by the Department of Correction;

96 [(5)] (4) Is identified as a possible match in the federal Terrorist
97 Screening Database or similar database; or

98 [(6)] (5) Is subject to a final order of deportation or removal issued
99 by a federal immigration authority. [; or]

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

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

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

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

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

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

127 (3) Otherwise required by law.

128 (f) (1) Upon receiving a civil immigration detainer, a law
129 enforcement agency shall provide a copy of the detainer to the affected
130 individual who is the subject of the detainer and inform the individual
131 whether the law enforcement agency intends to comply with the
132 detainer. If a law enforcement agency provides ICE with notification

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

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

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

160 (g) The Office of Policy and Management shall ensure that the
161 requirements of this section are disseminated to, and appropriate
162 training is provided for, all affected law enforcement agencies and
163 school police or security departments and employees and agents of
164 such law enforcement agencies and school police or security
165 departments. Such training may entail how law enforcement officers

166 and other officials performing similar duties will adhere to the
167 provisions of this section and how they will interact with crime
168 victims, potential criminal suspects and individuals cooperating with
169 law enforcement officers."

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