

---

---

# A BILL FOR AN ACT

RELATING TO COLLABORATION WITH THE FEDERAL GOVERNMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that according to a  
2 report published by the American Immigration Council in 2020,  
3 Hawaii is home to 266,147 immigrants, including forty-five  
4 thousand undocumented immigrants. The legislature further finds  
5 that Hawaii is justifiably proud of its rich immigrant heritage,  
6 which has woven many people into a valued tapestry of races,  
7 ancestral groups, religions, cultures, and languages from many  
8 parts of the world.

9           The legislature also finds that while immigration is a  
10 federal function, state and local agencies have significant  
11 discretion regarding whether and how to respond to requests for  
12 collaboration and assistance from federal immigration  
13 authorities. The enforcement of immigration law is carried out  
14 by Immigration and Customs Enforcement and Customs and Border  
15 Protection, both of which are agencies of the United States  
16 Department of Homeland Security. Federal law does not require  
17 state and local entities to collect or share information with



1 Immigration and Customs Enforcement and Customs and Border  
2 Protection. Rather, federal law, under title 8 United States  
3 Code section 1373, limits state and local governments from  
4 restricting communication with federal immigration authorities  
5 concerning "information regarding the citizenship or immigration  
6 status, lawful or unlawful, of any individual." There is no  
7 affirmative duty for state and local governments to collect or  
8 share this information, and there is no prohibition against  
9 preventing the communication of other non-public information.

10 The legislature additionally finds that the federal  
11 government should not shift the financial burden of federal  
12 civil immigration enforcement, including personnel time and  
13 costs relating to notification and detention, onto local law  
14 enforcement by requesting that local law enforcement agencies  
15 continue detaining persons based on non-mandatory civil  
16 immigration detainers or cooperating and assisting with requests  
17 to notify Immigration and Customs Enforcement that a person will  
18 be released from local custody. Furthermore, the legislature  
19 does not believe this is a wise and effective use of valuable,  
20 limited state and local resources at a time when vital services  
21 are already overburdened.



1           Moreover, the legislature finds that civil immigration  
2           detainers are issued by immigration officers without judicial  
3           oversight, and the federal regulation authorizing civil  
4           immigration detainers provides no minimum standard of proof for  
5           their issuance. As a result, there are serious questions  
6           concerning their constitutionality. Unlike criminal warrants,  
7           which must be supported by probable cause and issued by judges,  
8           no such requirements exist for the issuance of a civil  
9           immigration detainer. Several federal courts have ruled that  
10          because civil immigration detainers and other Immigration and  
11          Customs Enforcement "Notice of Action" documents are issued  
12          without probable cause of criminal conduct, they do not meet the  
13          Fourth Amendment requirements for state or local law enforcement  
14          officials to arrest and hold an individual in custody.  
15          Complying with non-mandatory civil immigration detainers  
16          frequently raises due process concerns.

17          In addition, the legislature finds that because Hawaii is  
18          home to people of diverse ethnic, racial, and national  
19          backgrounds, including immigrants who are valuable and important  
20          members of our community, it is essential to the public safety  
21          of all residents that there is a relationship of trust and



1 cooperation among all members of the community, including  
2 immigrants, migrants, and the local law enforcement community.  
3 This relationship, which is essential to community policing, is  
4 undermined when local law enforcement agencies voluntarily act  
5 at the request of federal immigration officials to enforce  
6 federal immigration laws.

7 Therefore, the purpose of this Act is to permit state and  
8 county law enforcement agencies to collaborate with the federal  
9 government for immigration purposes only in limited, specific  
10 circumstances.

11 SECTION 2. The Hawaii Revised Statutes is amended by  
12 adding a new chapter to be appropriately designated and to read  
13 as follows:

14 **"CHAPTER**

15 **IMMIGRATION; COLLABORATION WITH FEDERAL GOVERNMENT**

16 § -1 **Definitions.** As used in this chapter, unless the  
17 context otherwise requires:

18 "Civil immigration detainer", "civil immigration warrant",  
19 or "immigration hold" means an immigration detainer issued  
20 pursuant to title 8 Code of Federal Regulations section 287.7 or  
21 any similar request from Immigration and Customs Enforcement or



1 Customs and Border Protection for the detention of an individual  
2 suspected of violating civil immigration law.

3 "Customs and Border Protection" means United States Customs  
4 and Border Protection, a component of the United States  
5 Department of Homeland Security.

6 "Hawaii law enforcement agency" means any agency of the  
7 State or a county, or any officer of those agencies, that is  
8 authorized to enforce criminal laws, operate correctional  
9 facilities, or maintain custody of individuals in correctional  
10 facilities, and any individual or agency authorized to operate  
11 juvenile detention facilities or to maintain custody of  
12 individuals in juvenile detention facilities.

13 "Immigration and Customs Enforcement" means United States  
14 Immigration and Customs Enforcement, a component of the United  
15 States Department of Homeland Security.

16 "Judicial warrant" means a warrant based on probable cause  
17 and issued by a federal judge or a federal magistrate judge  
18 appointed under Article III of the United States Constitution  
19 who authorizes federal immigration authorities to take into  
20 custody the individual who is the subject of the warrant.

21 "Judicial warrant" shall not include a civil immigration



1 warrant, administrative warrant, or other document signed only  
2 by Immigration and Customs Enforcement or Customs and Border  
3 Protection officials.

4 § -2 Prohibition against honoring detainer requests;

5 **exceptions.** (a) No Hawaii law enforcement agency shall comply  
6 with a civil immigration detainer from Immigration and Customs  
7 Enforcement or Customs and Border Protection to detain or  
8 transfer an individual for immigration enforcement or  
9 investigation purposes; provided that the Hawaii law enforcement  
10 agency may respond affirmatively if the detainer request is  
11 accompanied by a judicial warrant or as provided in subsection  
12 (b).

13 (b) A Hawaii law enforcement agency may detain an  
14 individual for up to forty-eight hours on a civil immigration  
15 detainer request in the absence of a judicial warrant in the  
16 follow circumstances:

17 (1) The individual has been convicted of a felony within  
18 five years prior to the date of the official request;  
19 or

20 (2) There is probable cause to believe that the individual  
21 has or is engaged in terrorist activity.



1           §   -3   **Prohibition against requests for information;**  
2 **exceptions.** (a) No Hawaii law enforcement agency shall comply  
3 with any request from Immigration and Customs Enforcement or  
4 Customs and Border Protection for non-public information about  
5 an individual, including but not limited to information about an  
6 individual's release, home address, or work address, except as  
7 provided in subsection (b).

8           (b) A Hawaii law enforcement agency may comply with an  
9 information request in the following circumstances:

- 10           (1) The information request is accompanied by a judicial  
11           warrant;
- 12           (2) The individual has been convicted of a felony within  
13           five years prior to the date of the official request;
- 14           (3) The individual has been arrested for a felony and a  
15           judge has made a finding of probable cause pursuant to  
16           section 805-7; or
- 17           (4) The individual has been convicted as a repeat offender  
18           of any misdemeanor specified in section 706-606.5(5)  
19           within three years prior to the date of the request.

20           (c) A Hawaii law enforcement agency shall limit the  
21 information collected from individuals concerning immigration or



1 citizenship status to that information necessary to perform the  
2 duties of the agency.

3 (d) Nothing in this section shall prohibit a Hawaii law  
4 enforcement agency from:

5 (1) Sharing and receiving from any federal, state, or  
6 county agency information regarding an individual's  
7 country of citizenship or a statement of the  
8 individual's immigration status pursuant to title 8  
9 United States Code section 1373;

10 (2) Disclosing information where disclosure of that  
11 information is otherwise required by state law or  
12 pursuant to subpoena or court order; or

13 (3) Disclosing information about an individual's juvenile  
14 arrests or delinquency or youthful offender  
15 adjudications, where disclosure of that information  
16 about the individual is otherwise required by law or  
17 pursuant to subpoena or court order.

18 § -4 Counties; stronger standards and protections.

19 Nothing in this chapter shall be construed to prohibit any  
20 county from establishing stronger standards and protections than  
21 those provided by this chapter."





# H.B. NO. 22

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, consisting of a large, stylized 'B' followed by a horizontal line and a circular flourish.

JAN 10 2025



# H.B. NO. 22

**Report Title:**

Immigration; Collaboration with Federal Government; Law Enforcement Agencies

**Description:**

Allows state and county law enforcement agencies to collaborate with the federal government for immigration purposes in only limited, specific circumstances.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

