HOUSE BILL 29

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(PRE-FILED)

4lr0951 CF 4lr1170

By: **Delegate Gutierrez** Requested: November 14, 2013 Introduced and read first time: January 8, 2014 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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Maryland Law Enforcement Trust Act

- 3 FOR the purpose of expressing the intent of the General Assembly to restore 4 community trust in Maryland law enforcement by clarifying the parameters of $\mathbf{5}$ local participation in federal immigration enforcement efforts; providing that 6 when an individual becomes eligible for release from certain custody, a certain 7 official may not continue to detain the individual on the basis of an immigration 8 detainer; providing that a detainee may not be denied bail solely because of an 9 immigration detainer; providing that nothing in a certain provision of this Act 10 may be construed to undermine the authority of a court to make a bail or bond 11 determination according to its usual procedures; prohibiting a law enforcement 12official from stopping, arresting, searching, or detaining an individual for the 13purpose of investigating a suspected immigration violation or based on a certain warrant in a certain database; prohibiting a law enforcement official from 14 15inquiring into the immigration status or place of birth of an arrestee or a victim 16 of crime; prohibiting a law enforcement agency from making an inmate 17available for an interview by a federal immigration agent unless certain 18 conditions are met; requiring each State and local correctional facility to issue a 19 report once a year detailing certain information; requiring the Governor's Office 20of Crime Control and Prevention to adopt regulations to implement this Act; 21and generally relating to release from custody.
- 22 BY adding to
- 23 Article Criminal Procedure
- 24 Section 5–103
- 25 Annotated Code of Maryland
- 26 (2008 Replacement Volume and 2013 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 28 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.



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Article – Criminal Procedure

2 **5–103.**

3 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO RESTORE 4 COMMUNITY TRUST IN MARYLAND LAW ENFORCEMENT BY CLARIFYING THE 5 PARAMETERS OF LOCAL PARTICIPATION IN FEDERAL IMMIGRATION 6 ENFORCEMENT EFFORTS.

7 (B) WHEN AN INDIVIDUAL BECOMES ELIGIBLE FOR RELEASE FROM 8 STATE OR LOCAL CUSTODY, A LAW ENFORCEMENT OR ANY OTHER 9 GOVERNMENT OFFICIAL MAY NOT CONTINUE TO DETAIN THE INDIVIDUAL ON 10 THE BASIS OF AN IMMIGRATION DETAINER.

11 (C) (1) A DETAINEE MAY NOT BE DENIED BAIL SOLELY BECAUSE OF 12 AN IMMIGRATION DETAINER.

(2) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO
 UNDERMINE THE AUTHORITY OF A COURT TO MAKE A BAIL OR BOND
 DETERMINATION ACCORDING TO ITS USUAL PROCEDURES.

16 (D) A LAW ENFORCEMENT OFFICIAL MAY NOT STOP, ARREST, SEARCH, 17 OR DETAIN AN INDIVIDUAL FOR THE PURPOSE OF INVESTIGATING A SUSPECTED 18 IMMIGRATION VIOLATION OR BASED ON AN ADMINISTRATIVE WARRANT IN THE 19 NATIONAL CRIME INFORMATION CENTER DATABASE.

20 (E) A LAW ENFORCEMENT OFFICIAL MAY NOT INQUIRE INTO THE 21 IMMIGRATION STATUS OR PLACE OF BIRTH OF AN ARRESTEE OR VICTIM OF 22 CRIME.

23(F)A LAW ENFORCEMENT AGENCY MAY NOT MAKE AN INMATE24AVAILABLE FOR AN INTERVIEW BY A FEDERAL IMMIGRATION AGENT UNLESS:

(1) THE INMATE IS GIVEN A MEANINGFUL OPPORTUNITY TO HAVE
 COUNSEL PRESENT;

27 (2) THE INMATE SIGNS A WRITTEN CONSENT FORM; AND

28 **(3)** THE INTERVIEW DOES NOT TAKE PLACE PRIOR TO THE 29 INMATE'S FIRST APPEARANCE IN COURT.

30(G) ONCE A YEAR, EACH STATE AND LOCAL CORRECTIONAL FACILITY31SHALL ISSUE A REPORT DETAILING:

1 (1) THE NUMBER OF INDIVIDUALS HELD ON IMMIGRATION 2 DETAINERS;

3 (2) THE NUMBER OF DAYS EACH INDIVIDUAL WHO WAS HELD ON
4 AN IMMIGRATION DETAINER WAS HELD PAST THE DATE THE INDIVIDUAL WAS
5 ELIGIBLE FOR RELEASE ON STATE CHARGES;

6 (3) THE REASON FOR THE ARREST OF EACH INDIVIDUAL HELD ON 7 AN IMMIGRATION DETAINER; AND

8 (4) THE NUMBER OF INDIVIDUALS ULTIMATELY TRANSFERRED TO
 9 THE CUSTODY OF FEDERAL IMMIGRATION AUTHORITIES.

10 (H) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION 11 SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS 12 SECTION.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect14 October 1, 2014.