



128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1833

H.P. 1275

House of Representatives, February 8, 2018

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

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LOCKMAN of Amherst. (GOVERNOR'S BILL)
Cosponsored by Senator MASON of Androscoggin and
Representatives: DILLINGHAM of Oxford, TIMBERLAKE of Turner, WARD of Dedham,
Senators: BRAKEY of Androscoggin, CUSHING of Penobscot, KEIM of Oxford, President
THIBODEAU of Waldo, WHITTEMORE of Somerset.

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

2 **Sec. 1. 5 MRSA Pt. 31** is enacted to read:

3 **PART 31**

4 **IMMIGRATION INFORMATION SHARING**

5 **CHAPTER 631**

6 **IMMIGRATION STATUS**

7 **§25001. Short title**

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

9 **§25002. 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
21 enforcement agency to provide notice of release of and to detain an individual based on
22 an inquiry into immigration status or an alleged violation of a civil immigration law,
23 including detainers issued pursuant to 8 Code of Federal Regulations, Section 287.7 or
24 236.1 or on a Department of Homeland Security form requesting voluntary notification of
25 a pending release of a person identified by the Department of Homeland Security as a
26 suspected priority alien or requesting a law enforcement agency to voluntarily take action
27 to maintain custody of a detained person.

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

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

1 **6. Law enforcement agency official.** "Law enforcement agency official" means a
2 person having official duties as a representative, agent or employee of a law enforcement
3 agency.

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

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

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

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

14 **§25003. Prohibitions concerning sharing and use of information; compliance with**
15 **federal law and law enforcement**

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

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

24 **A. Sending such information to or requesting or receiving such information from the**
25 **Department of Homeland Security;**

26 **B. Maintaining such information;**

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

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

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

34 **F. Using such information to confirm the identity of a person who is detained by a**
35 **law enforcement agency.**

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

1 **4. Enforcement of federal immigration laws.** A government entity may not limit
2 or restrict the enforcement of federal immigration law, including, but not limited to,
3 limiting or restricting a government entity from complying with an immigration detainer,
4 limiting or restricting a government entity from providing a federal immigration official
5 access to an inmate for an interview, limiting or restricting a government entity from
6 initiating an immigration status investigation or limiting or restricting a government
7 entity from providing a federal immigration official with the incarceration status or
8 release date of an inmate in custody of a government entity.

9 **§25004. Complaint process; appeals**

10 **1. Resident complaints and Legislator requests submitted to Attorney General.**
11 A resident of the State may submit a complaint to the Attorney General asserting a
12 violation of section 25003 by a government entity. The complaint must be in writing and
13 in a form and manner as prescribed by the Attorney General. A member of the
14 Legislature may request that the Attorney General investigate and issue an opinion as to
15 whether a government entity has violated section 25003.

16 **2. Attorney General investigation.** After receiving a complaint or request under
17 subsection 1, the Attorney General shall investigate and determine whether a violation of
18 section 25003 has occurred. If after the investigation the Attorney General determines
19 that a violation of section 25003 has occurred, the Attorney General shall issue an
20 opinion that a violation has occurred. The Attorney General shall make the opinion
21 available to the public.

22 **3. Review of Attorney General findings.** If the Attorney General issues an opinion
23 pursuant to subsection 2 that a government entity has violated section 25003, the
24 government entity has 30 days from the date the opinion was issued to contest the finding
25 in Superior Court.

26 A. If the Superior Court affirms the Attorney General's findings, the court shall
27 immediately enjoin the policy or practice in violation of section 25003. A
28 government entity that fails to comply with an injunction is subject to a fine of \$500
29 for each day the policy or practice of the government entity remains in effect.

30 B. If the Superior Court overturns the Attorney General's findings, the Attorney
31 General shall immediately certify that the government entity is in compliance with
32 section 25003.

33 **§25005. Duty to report**

34 A state government entity official, local government entity official, law enforcement
35 agency official or person holding public office shall report a violation of section 25003 by
36 submitting a complaint to the Attorney General pursuant to section 25004, subsection 1.
37 A person who reports a violation under this section is protected under the Whistleblowers'
38 Protection Act.

