

SECTION 1. Chapter 127 of the General Laws is hereby amended by inserting after section 87A the following section:-

Section 87B. (a) As used in this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

“Competent interpretive services”, as defined in subsection (a) of section 25J of chapter 111.

“Facility”, any state correctional facility, state prison, including, but not limited to, county jail, house of correction or prerelease center, that houses individuals.

(b) This section shall apply to any facility.

(c) Upon intake, the facility shall provide each detained individual, with written notices, in the individual’s primary language: (i) notice of the right to legal counsel; (ii) notice of the right to decline interviews by state or federal law enforcement or consular officials; (iii) notice of right to counsel; (iv) instructions for contacting counsel and legal services; and (v) the procedures for confidential legal communications and grievance review.

(d)(1) The facility shall ensure confidential, unmonitored attorney-client telephone communications.

(2) The facility shall provide a verified counsel line that permits counsel of record to complete not less than 1 confidential inbound call per day with the detained individual; provided, however, that if direct inbound calling is technologically infeasible, the facility shall provide a system for counsel of record to request a confidential callback that shall occur within 24 hours of the request by the counsel of record.

(e)(1) The facility shall maintain a record identifying individuals detained in any facility. The record shall be updated not later than 6 hours after intake into the facility and not later than 6 hours after any transfer out of the facility. The record shall include, but shall not be limited to: (i) confirmation of custody in the facility; (ii) contact-routing information sufficient for counsel and family to maintain contact; and (iii) a facility procedure for legal communications and general inquiries.

(2) The record shall be provided by the facility to: (1) counsel of record; and (2) a person designated by the detained individual at intake, orally or in writing, and recorded in the intake record. The facility shall limit disclosure to the minimum information necessary to locate and contact the detained individual. The facility shall maintain audit logs of access attempts and disclosures for not less than 1 year.

(3) The facility shall implement reasonable identity verification, auditing and privacy safeguards.

(4) The facility shall adopt written policies for identity verification and access control.

(5) The facility shall, upon transfer of a detained individual to or from the facility, make reasonable efforts to notify counsel of record and any designated contact recorded pursuant to paragraph (2) not later than 6 hours after the transfer is effected, including, but not limited to, the name of the receiving facility and instructions for locating the individual.

(f) The facility shall provide competent interpretive services for any: (i) translated intake materials pursuant to subsection (c); (ii) medical related interactions; (iii) mental health related interactions; (iv) disciplinary related interactions; (v) legal-access related interactions; and (vi) grievance related interactions.

(g)(1) No facility shall impede a detained individual's reasonable access to counsel or any required proceedings.

(2) The facility shall provide transportation or functional remote access to mandatory government appointments or any other court proceedings.

(h) The facility shall provide a public phone number for a caller to obtain confirmation of whether an individual is detained at the facility and obtain contact instructions; provided, that the facility may require the caller to provide the individual's full name, date of birth and additional identifying information only as necessary to resolve multiple matches.

(i) The secretary of public safety and security shall consult with the attorney general to promulgate regulations establishing minimum compliance standards, and written policies.

SECTION 2. Chapter 147 of the General Laws is hereby amended by adding the following section:-

Section 64. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Law enforcement agency”, as defined in section 1 of chapter 6E.

“Law enforcement officer”, as defined in section 1 of chapter 6E.

“Federal immigration authority”, the United States Department of Homeland Security, Immigration and Customs Enforcement, Customs and Border Protection or any successor entity, and any person acting on their behalf.

“Civil immigration process”, any civil immigration detainer request, administrative warrant, notice to appear, removal order or other civil immigration document not issued by a judge of a court of competent jurisdiction upon a finding of probable cause.

“Nonpublic personal information”, information not otherwise available to the public that is maintained by a law enforcement agency or political subdivision.

(b) For purposes of this subsection,, the term “person's immigration or citizenship status is directly material” shall mean only when necessary to establish an element of a specific

criminal offense under the laws of the commonwealth, and shall not be deemed directly material for assessing credibility, cooperation or for general information gathering. Except as required by federal or state law, or pursuant to a judicial warrant, court order or treaty, no officer or employee of a law enforcement agency shall:

(i) inquire about the immigration or citizenship status of any person; provided, however, that a law enforcement officer may make such inquiry only when the officer has an articulable, case-specific reason to believe the person's immigration or citizenship status is directly material to an element of a specific criminal offense under the laws of the commonwealth being investigated, and the officer documents that reason in the incident report or case file;

(ii) record or maintain immigration or citizenship status information except as required by federal, state law, treaty or as documented pursuant to clause (i); or

(iii) use state or local resources for the purpose of enforcing a federal civil immigration enforcement action.

(c) Except as required by federal or state law or pursuant to a judicial warrant, court order or treaty, no state or local law enforcement officer shall initiate contact with any federal authority to: (i) provide nonpublic personal information to a federal immigration authority; or (ii) provide advance notice of a person's release, unless said release is in connection with the satisfaction of an imposed sentence.

(d)(1) No law enforcement agency or political subdivision of the commonwealth, except for the department of correction, shall execute, renew or materially expand a memorandum of agreement under section 287(g) of the federal Immigration and Nationality Act, or any substantially similar agreement or arrangement that deputizes state or local personnel to perform civil immigration enforcement functions.

(2) Notwithstanding paragraph (1), any law enforcement agency may petition the secretary of public safety and security for approval of a time-limited agreement, pursuant to said section 287(g), that is restricted solely to criminal public safety purposes and does not authorize civil immigration enforcement; provided, that: (i) the agreement is limited to cooperation in the execution of criminal warrants or criminal process issued by a court of competent jurisdiction; (ii) the petition demonstrates an articulable, imminent public safety interest; (iii) the secretary issues a written determination after public notice and comment and consultation with the attorney general; (iv) the attorney general prepares and publishes, contemporaneously with the secretary's written determination, a written legal analysis assessing compliance with the requirements of this subsection and identifying material legal risks, including potential federal preemption or intergovernmental immunity concerns; (v) the approval sunsets not later than 12 months after issuance and may be renewed only upon the same process; and (vi) the agency files quarterly public reports describing implementation, excluding personally identifying information.

(e) Nothing in this section shall be construed to: (i) prohibit or restrict the sending to, or receiving from, federal immigration authorities information regarding an individual's citizenship or immigration status as described in 8 U.S.C. § 1373 or 8 U.S.C. § 1644; or (ii) limit cooperation with federal authorities in the investigation or prosecution of criminal offenses, including compliance with judicial warrants, subpoenas or court orders.

SECTION 3. Section 19C of chapter 149 of the General Laws, as appearing in the 2024 Official Edition, is hereby amended by inserting after the second paragraph, the following paragraph:-

Except as required by federal law, not later than 48 hours after receiving a notice of inspection by U.S. Immigration and Customs Enforcement for inspection of I-9 employment eligibility verification forms or other employment records each employer shall provide written notice to employees of any such request,.

SECTION 4. The General Laws are hereby amended by inserting after chapter 221 the following chapter:-

#### CHAPTER 221A

##### Civil Arrests in Courts

Section 1. As used in this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

“Civil arrest”, an arrest that is not: (i) for the sole or primary purpose of preparing the person subject to such arrest for criminal prosecution, for an alleged violation of the criminal law of: (A) the commonwealth or another jurisdiction within the United States, for which a sentence of a term of imprisonment is authorized by law; or (B) the United States, for which a sentence of a term of imprisonment is authorized by law, and for which federal law requires an initial appearance before a federal judge, federal magistrate or other judicial officer, pursuant to the federal rules of criminal procedure that govern initial appearances; (ii) for contempt of court; (iii) for a *capias* issued by a judge of the commonwealth; (iv) for a parole warrant issued under section 149A of chapter 127 or a probation warrant issued under section 3 of chapter 279; (v) for a governor's warrant of arrest issued under section 16 of chapter 276; or (vi) related to a petition or commitment under section 12 of chapter 123

“Courthouse”, the interior of any facility or property in which a court of the commonwealth conducts business.

“Judicial warrant or judicial order”, an arrest warrant or other judicial order, issued by a judge or magistrate sitting in the judicial branch of state government or of the federal government, authorizing an arrest.

“Law enforcement agency”, (i) a state, county, municipal or district law enforcement agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department; (ii) a sheriff’s department in its performance of police duties and functions; (iii) a public or private college, university or other educational institution or hospital police department; (iv) a federal law enforcement agency; or (v) a humane society police department in section 57 of chapter 22C.

“Law enforcement officer”, any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to section 57, section 58 or section 63 of chapter 22C; a special sheriff appointed pursuant to section 4 of chapter 37 performing police duties and functions; a deputy sheriff appointed pursuant to section 3 of said chapter 37 performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve or intermittent police officer.

Section 2. No representative of a law enforcement agency shall make a civil arrest of an individual present at a courthouse unless such representative: (i) is acting in the representative’s official capacity; and (ii) has provided documentation to a designated judge, justice or judicial magistrate sitting in the courthouse demonstrating that the individual to be arrested is the subject of a judicial warrant or judicial order authorizing civil arrest. The designated judicial official shall promptly review such documentation. Except in extraordinary circumstances, as determined by the designated judicial official, civil arrests shall not be made by a representative of a law enforcement agency in a courtroom.

Section 3. The chief justice of the trial court may issue rules and notices to implement this act; provided, however, that the protections of this act shall apply regardless of whether the trial court implements this act by rule or notice.

Section 4. (a) Copies of all warrants and orders authorizing arrest and provided to court personnel pursuant to this section shall be maintained by the chief justice of the trial court.

(b) Annually, not later than July 1, the trial court shall prepare, publish on the court’s website and provide to the governor, the president of the senate, the speaker of the house of representatives, the clerks of the house and senate, the chairs of the joint committee on public safety and homeland security and the chairs of the joint committee on the judiciary, a report containing information on the warrants and judicial orders received by each local and state court of the commonwealth pursuant to this section in the past calendar year. The report shall include, but shall not be limited to, the date each judicial warrant or judicial order was signed, the judge who issued such judicial warrant or judicial order and the name and location of the court that issued the warrant or order, as shown by such warrant or order, the date the judicial warrant or judicial order was presented to the court, a description of the type of judicial warrant or judicial

order and, if known, whether or not an arrest occurred with respect to such warrant and the date and specific location of such arrest.

Section 5. (a) An arrest or detention in violation of this section shall constitute contempt of court and false imprisonment; provided, however, that nothing in this section shall affect any right or defense available to a person, law enforcement officer public officer or any court system personnel acting lawfully and in accordance with duties outlined in section 70A of chapter 221.

(b) The attorney general is authorized to enforce this chapter, including, but not limited to, through a suit in equity in the superior court.

Section 6. (1)An individual may apply for a writ of habeas corpus if such person has reasonable cause to believe a violation of this section has occurred.

(2) The attorney general may bring a civil action in the name of the people of the commonwealth to obtain appropriate equitable and declaratory relief if the attorney general has reasonable cause to believe that a violation of this section has occurred.

Section 7. Nothing in this section shall be construed to narrow or abrogate rights or privileges against civil arrest that exist under the common law.

Section 8. No action may be commenced pursuant to this section against the judicial branch or any officer or employee of the judicial branch acting lawfully and in good faith, pursuant to such officer's or employee's official duties and in accordance with this chapter and other applicable laws and regulations.

Section 9. Nothing in this section shall be interpreted to require any person, including any law enforcement officer, court personnel or court officer, to interfere with or assist the actions of a federal official engaged in civil immigration enforcement. Nothing in this section shall be interpreted to confer upon any law enforcement officer the authority, obligation or responsibility to enforce, interpret, supervise, assess compliance with or prevent conduct governed by this section.

SECTION 5. The General Laws are hereby amended by striking out chapter 258F and inserting in place thereof the following chapter:-

#### CHAPTER 258F

##### Certification for Victims of Criminal Activity and Human Trafficking

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Certifying entity”, any law enforcement agency, any district attorney and the attorney general.

“Qualifying criminal activity”, (i) criminal activity described in 8 U.S.C. § 1101(a)(15)(U)(iii) and severe forms of trafficking in persons described in 8 U.S.C. § 1101(a)(15)(T); and (ii) any offense under the laws of the commonwealth or a political subdivision thereof that is substantially similar. For purposes of determining whether a person is a victim of qualifying criminal activity for certification, a certifying entity shall not require the filing of criminal charges or a conviction. For purposes of certification decisions under this chapter, allegations of wage theft, workplace safety violations, housing violations or labor exploitation accompanied by threats of deportation, intimidation or retaliation may constitute qualifying criminal activity where the alleged conduct is reasonably consistent with extortion, coercion, involuntary servitude, peonage, obstruction of justice, witness intimidation or other substantially similar offenses under state or federal law.

“Helpful” or “helpfulness”, the meaning used in the applicable federal certification form; provided, that “Helpfulness” shall include being helpful in the past, currently being helpful or being likely to be helpful.

Section 2. The attorney general shall promulgate regulations permitting any executive branch and its political subdivision to facilitate the submission of an application for certification pursuant to this chapter.

Section 3. Each certifying entity shall adopt, publish and maintain a written certification policy consistent with this chapter. The policy shall include, but shall not be limited to: (i) identify a designated certifying official and an alternate; (ii) describe how requests may be submitted, including by email, through counsel or through an authorized advocate; (iii) identify objective criteria used to assess victimization and helpfulness consistent with federal certification forms; (iv) prohibit consideration of the applicant’s immigration admissibility or eligibility beyond the determinations required by the federal form; (v) prohibit any fee; and (vi) describe the entity’s internal review process for denials.

Section 4. (a) Not later than 45 days after receiving the request a certifying entity shall respond to a nonimmigrant status certification request from a victim of qualifying criminal activity who intends to petition for a nonimmigrant visa under 8 U.S.C. § 1101(a)(15)(U) or from a victim of severe forms of trafficking in persons who intends to petition for a nonimmigrant visa under 8 U.S.C. § 1101(a)(15)(T).

(b) If the applicant, counsel or advocate certifies that the applicant is in federal removal proceedings or has a scheduled immigration court hearing within 45 days, the certifying entity shall respond not later than 14 business days after receiving the request; provided, however, that the certifying entity provides a written explanation that extraordinary circumstances outside the control of the certifying entity prevent compliance and states a projected response date.

(c) The certifying entity shall respond by: (i) completing and signing the applicable federal certification form; (ii) issuing a written denial without prejudice that states the specific

reasons the request does not meet the requirements of the entity's policy under section 3 and identifies the internal review process; or (iii) issuing a written explanation of delay as provided in subsection (b).

Section 5. (a) A certifying entity shall establish a rebuttable presumption of helpfulness for any victim who timely reports qualifying criminal activity and is willing to provide information in a manner reasonably requested by the certifying entity. A certifying entity shall not deny a request solely because: (i) no arrest was made; (ii) the case was closed; (iii) the victim has a criminal record unrelated to the qualifying criminal activity; or (iv) the victim chose to exercise constitutional rights.

(b) No state or local employee shall report or threaten to report an individual to federal immigration authorities in retaliation for seeking certification, reporting a crime, participating in an investigation, filing a labor or civil rights complaint or cooperating with a proceeding.

Section 6. The secretary of public safety and security, in consultation with the attorney general, shall promulgate regulations that shall include minimum standards for internal review processes, training and data reporting under this chapter. Each certifying entity shall report annually to the secretary aggregate data sufficient to evaluate compliance, including request volume, response times, approvals, denials and reasons for denial, in a manner that protects victim confidentiality.

Section 7. Notwithstanding subsection (b) of section 64 of chapter 147, a law enforcement agency may inquire into the immigration or citizenship status of a victim of a crime, witness or person seeking assistance, in accordance with this chapter.

SECTION 6. Section 58 of chapter 276 of the General Laws, as appearing in the 2024 Official Edition, is hereby amended by inserting, in line 31, after the word "community" the following words:- , the likelihood of imminent deportation.

SECTION 7. For the purposes of this section and sections X1 to X2, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Civil immigration enforcement", any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law.

"Judicial warrant or judicial order", an arrest warrant or other judicial order, issued by a judge or magistrate sitting in the judicial branch of a local or state government or of the federal government, authorizing an arrest.

"Law enforcement agency", (i) a state, county, municipal or district law enforcement agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known

as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department; (ii) a sheriff's department in its performance of police duties and functions; (iii) a public or private college, university or other educational institution or hospital police department; (iv) a federal law enforcement agency; or (v) a humane society police department in section 57 of chapter 22C.

“Law enforcement officer,” any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to section 57, section 58 or section 63 of chapter 22C; a special sheriff appointed pursuant to section 4 of chapter 37 performing police duties and functions; a deputy sheriff appointed pursuant to section 3 of said chapter 37 performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve or intermittent police officer.

“Person” or “people”, a resident of, or visitor to, the commonwealth regardless of immigration status.

“Private entity” or “private entities”, (i) all private organizations employing, enrolling or admitting to membership 10 or more people; or (ii) any private organization receiving state funds.

“State entity”, any land, building, or part thereof, owned, leased, occupied, controlled by, or used for business by the commonwealth, except for state courthouses.

SECTION X1. (a) Except as required by state or federal law or as required to administer a state or federally supported or funded program, the governor may prohibit, in nonpublic areas of any state entity, civil immigration enforcement activities.

(b) The governor shall, pursuant to chapter 30A of the General Laws, promulgate rules and regulations necessary for the administration and enforcement of this section; provided, however, that the regulations may identify state entities requiring prioritization to minimize violations of people’s civil rights related to civil immigration enforcement.

SECTION X2. (a) The governor in consultation with the attorney general, shall publish multilingual guidelines for all state agencies and private entities regarding how to handle interactions with law enforcement officers involved in civil immigration enforcement. Said guidelines shall include guidance on:

(1) designating a contact person or persons to be notified of the presence of, or information requests from, law enforcement agents engaged in civil immigration enforcement;

(2) verifying the identity and authority of any law enforcement officer engaged in civil immigration enforcement;

(3) verifying the validity of any judicial warrant or judicial order provided; and

(4) documenting all interactions with law enforcement agents engaged in civil immigration enforcement; and

(5) informing all persons how to respond to requests relating to civil immigration enforcement.

(b) The governor, in consultation with the attorney general, shall publish multilingual guidelines for all law enforcement agencies regarding how to handle interactions by law enforcement officers with people regarding civil immigration enforcement. Said guidelines shall include, without limitation, guidance on:

(1) the duties and responsibilities of law enforcement agencies and law enforcement officers related to civil immigration enforcement;

(2) reporting on activities of law enforcement officers involved in civil immigration enforcement that are conducted in the presence of local and state law enforcement;

(3) providing any report of activities of law enforcement officers involved in civil immigration enforcement to the attorney general for review and enforcement.

(c) The governor, in consultation with the attorney general, shall publish multilingual guidelines explaining individual civil rights related to federal immigration enforcement, including, guidelines on how people can contact legal services related to civil immigration enforcement.

(d) The governor shall post the guidelines required to be published pursuant to this section prominently on the commonwealth's website.

(e) The regulation required by this section shall be published and posted on the Commonwealth's website not later than 190 days of the effective date of this act.

SECTION X. The guidelines required by section X1 shall be published and posted on the Commonwealth's website within 190 days of the effective date of this act; provided, however, that within 30 days of effective date of this act, the Governor shall publish temporary guidelines pending publication of the final guidelines required by subsection (b); and provided further, that the Governor may publish emergency regulation pursuant to chapter 30A of the General Laws pending publication of the final guidelines required by subsection (b).

SECTION 8. (a) The attorney general may enforce sections 1, 2, 4 and 5 by a civil action brought in the superior court for declaratory, injunctive and other equitable relief to compel compliance or prevent violations.

(b) In an action under this section, the court may issue emergency, long-term and permanent orders, including but not limited to: (i) an order requiring immediate compliance with a statutory duty; (ii) an order prohibiting conduct that violates this act; (iii) a compliance plan with deadlines; and (iv) reasonable monitoring and periodic reporting to the court.

(c) Nothing in this act shall be construed to create a private right of action; provided, however, that nothing herein shall limit any remedy otherwise available under law.

SECTION 9. Sections 1, 4, and 5 shall take effect 90 days after the effective date of this act.

SECTION 10. Section 2 shall take effect 180 days after the effective date of this act.

SECTION 11. Section 8 shall take effect 60 days after the effective date of this act.