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**HOUSE BILL NO. 1438**

Offered January 22, 2026

A *BILL to amend the Code of Virginia by adding in Chapter 17 of Title 15.2 an article numbered 2.1, consisting of sections numbered 15.2-1730.2 through 15.2-1730.5, relating to agencies of the Commonwealth; law-enforcement agencies; employees and officers; agreements with federal authority for immigration enforcement; prohibitions and limitations.*

Patrons—Guzman, Helmer, Shin, Tran, Bennett-Parker, Clark, Cousins, Hope, Price and Schmidt

Referred to Committee on Public Safety

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 17 of Title 15.2 an article numbered 2.1, consisting of sections numbered 15.2-1730.2 through 15.2-1730.5, as follows:**

*Article 2.1.*

*Agreements with Federal Authority for Enforcement of Immigration Laws.*

**§ 15.2-1730.2. Definitions.**

*For the purposes of this article, unless the context requires a different meaning:*

*"Judicial warrant" means a formal written order issued by a federal judge or magistrate authorizing a law-enforcement officer to perform a search, seizure, or arrest. "Judicial warrant" does not include an administrative warrant or a detainer, including an administrative warrant or detainer issued to enforce federal immigration law.*

*"Law-enforcement agency" means any state or local agency that employs law-enforcement officers and that has as its principal function the enforcement of the laws of the Commonwealth and its localities. "Law-enforcement agency" includes the following to the extent that such agency performs law-enforcement functions: any sheriff's office, any police department, any probation or parole office, the Department of Corrections, the Marine Resources Commission, the Virginia Department of Wildlife Resources, local and regional jail authorities, and any other agency or department in the Commonwealth created to enforce the laws of the Commonwealth and its localities.*

*"Law-enforcement officer" means (i) a law-enforcement officer, school resource officer, or school security officer as those terms are defined in § 9.1-101 or (ii) an employee of a law-enforcement agency.*

**§ 15.2-1730.3. Agencies of the Commonwealth; state or local law-enforcement agencies; prohibited actions.**

*A. No agency of the Commonwealth or law-enforcement agency shall:*

*1. Enter into, modify, renew, or extend any agreement that authorizes any law-enforcement officer to perform a function of a federal immigration officer;*

*2. Detain or retain custody or supervision of a person incarcerated in a local, regional, or state correctional facility on the basis of such person's citizenship status or in response to a request by an immigration agent beyond the date that such person is otherwise scheduled for release;*

*3. Investigate, process, or arrest any person for federal immigration purposes except as required by the laws of the Commonwealth;*

*4. Assist in the enforcement of federal immigration laws irrespective of whether there is an existing agreement to do so unless otherwise required by state or federal law; and*

*5. Conduct informal or formal non-mandatory communications with federal immigration authorities.*

*B. Nothing in this section shall be construed to limit a law-enforcement agency from enforcing any valid judicial warrant or to prohibit a law-enforcement agency from complying with other federal statutory or regulatory requirements regarding the disclosure of criminal history record information under 28 C.F.R. Part 20 or any other requirement under state or federal law.*

**§ 15.2-1730.4. Law-enforcement officers; employees of state agency; prohibited acts; civil penalties.**

*A. No employee of an agency of the Commonwealth or law-enforcement officer shall, while engaged in the performance of his duties:*

*1. Inquire about an individual's citizenship, immigration status, or place of birth during a stop, a search, or an arrest;*

*2. Detain or retain custody or supervision of a person incarcerated in a local, regional, or state correctional facility on the basis of such person's citizenship status or in response to a request by an immigration agent beyond the date that such person is otherwise scheduled for release;*

*3. Transfer a person to federal immigration authorities unless required to do so by state or federal law;*

*4. Coerce, intimidate, or threaten any person based on the actual or perceived citizenship or immigration status of the person, the person's family or household member, the person's legal guardian, or another person*

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59 *for whom the person is the legal guardian; or*

60 *5. Assist in the enforcement of federal immigration laws irrespective of whether there is an existing*  
61 *agreement to do so unless otherwise required by state or federal law.*

62 *B. Nothing in this section shall prevent an employee of a state agency or law-enforcement officer from*  
63 *inquiring about any information if such information is material to a criminal investigation.*

64 *C. If the citizenship or immigration status of a person is relevant to a protection afforded to such person*  
65 *under state or federal law or subject to a requirement imposed by an international treaty, an employee of a*  
66 *state agency or law-enforcement officer may (i) notify such person of such protection or requirement and (ii)*  
67 *provide such person with the opportunity to voluntarily disclose such person's citizenship or immigration*  
68 *status for the purpose of receiving such protection or complying with such requirement.*

69 *D. In addition to any other remedy provided by law, a person may bring a civil action for appropriate*  
70 *equitable, injunctive, or declaratory relief against another person who willfully violates the provisions of this*  
71 *section. Nothing in this section shall be construed to limit or prohibit any person injured as a result of an*  
72 *arrest performed in violation of this section from recovering damages or other appropriate relief.*

73 *E. The Attorney General shall develop, publish, and periodically update guidance on the application of*  
74 *this section to law-enforcement officers.*

75 **§ 15.2-1730.5. Construction and severability.**

76 *The provisions of this article shall be severable and if any provision or the application thereof to any*  
77 *person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does*  
78 *not affect other provisions or any other application of this article that can be given effect without the invalid*  
79 *provision or application.*

80 **2. That, pursuant to the provisions of this act, a state agency or law-enforcement agency that has an**  
81 **existing written agreement authorizing any employee or law-enforcement officer to perform a function**  
82 **of a federal immigration officer or to enforce federal immigration law shall terminate such written**  
83 **agreement no later than September 1, 2026.**