



Rep. Emanuel Chris Welch

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1 AMENDMENT TO SENATE BILL 31

2 AMENDMENT NO. _____. Amend Senate Bill 31 as follows:

3 "Section 1. Short title. This Act may be cited as the
4 Illinois TRUST Act.

5 Section 5. Legislative intent. It is the intent of the
6 General Assembly that this Act shall not be construed as
7 providing, expanding, or ratifying the legal authority for any
8 State or local law enforcement agency to detain an individual
9 on an immigration detainer or nonjudicial immigration warrant,
10 or perform any other civil immigration enforcement function.
11 State law does not grant State or local law enforcement the
12 authority to enforce federal civil immigration laws.
13 Interactions between State and local law enforcement and
14 federal immigration agents shall be consistent and uniform
15 throughout the State.

1 Section 10. Definitions. In this Act:

2 "Certification form" means any law enforcement
3 certification form or statement required by federal
4 immigration law certifying that a person is a victim of
5 qualifying criminal activity including, but not limited to, the
6 information required by Section 1184(p) of Title 8 of the
7 United States Code (including current United States
8 Citizenship and Immigration Service Form I-918, Supplement B,
9 or any successor form) for purposes of obtaining a U visa, or
10 by Section 1184(o) of Title 8 of the United States Code
11 (including current United States Citizenship and Immigration
12 Service Form I-914, Supplement B, or any successor form) for
13 purposes of obtaining a T visa.

14 "Certifying agency" means a State or local law enforcement
15 agency, prosecutor, or other public authority that has
16 responsibility for the detection, investigation, or
17 prosecution of criminal activity including an agency that has
18 criminal investigative jurisdiction in its respective areas of
19 expertise. "Certifying agency" also includes the Department of
20 Labor, the Department of Children and Family Services, the
21 Department of Human Services, and the Illinois Workers'
22 Compensation Commission. "Certifying agency" does not include
23 any State court.

24 "Certifying official" means the head of a certifying agency
25 as defined in this Section, or a person within the agency
26 performing a supervisory role who is specifically designated by

1 the head of the certifying agency to respond to requests for
2 certification forms or a person within another certifying
3 agency specifically designated by agreement between the heads
4 of the agencies to respond to requests for certification forms.

5 "Contact information" means home address, work address,
6 telephone number, electronic mail address, social media
7 information, or any other personal identifying information
8 that could be used as a means to contact a person.

9 "Eligible for release from custody" means that the person
10 may be released from custody because one of the following
11 conditions has occurred:

12 (1) all criminal charges against the person have been
13 dropped or dismissed;

14 (2) the person has been acquitted of all criminal
15 charges filed against him or her;

16 (3) the person has served all the time required for his
17 or her sentence;

18 (4) the person has posted a bond or has been released
19 on his or her own recognizance; or

20 (5) the person is otherwise eligible for release.

21 "Immigration agent" means an agent of federal Immigration
22 and Customs Enforcement, federal Customs and Border
23 Protection, a person authorized to conduct enforcement of civil
24 immigration laws under Section 1357(g) of Title 8 of the United
25 States Code or any other federal law, any other federal agent
26 charged with enforcement of civil immigration laws, or any

1 successor agent.

2 "Immigration detainer" means a document issued by an
3 immigration agent to a State or local law enforcement agency
4 that requests that the law enforcement agency provide notice of
5 release or maintain custody of a person that is not approved
6 and signed by a judge, including a detainer issued under
7 Section 1226 or 1357 of Title 8 of the United States Code or
8 Section 236.1 or 287.7 of Title 8 of the Code of Federal
9 Regulations.

10 "Law enforcement agency" means an agency in this State
11 charged with enforcement of State, county, or municipal laws or
12 with managing custody of detained persons in the State.

13 "Law enforcement official" means any officer or other agent
14 of a State or local law enforcement agency authorized to
15 enforce criminal laws, rules, regulations, or local ordinances
16 or to operate jails, correctional facilities, or juvenile
17 detention facilities or to maintain custody of persons in
18 jails, correctional facilities, or juvenile detention
19 facilities.

20 "Nonjudicial immigration warrant" means a Form I-200 or
21 I-205 administrative warrant or any other immigration warrant
22 or request from an immigration agent to arrest or detain a
23 person that is not approved and signed by a judge, including
24 administrative warrants entered into the Federal Bureau of
25 Investigation's National Crime Information Center database.

26 "Qualifying criminal activity" means any activity,

1 regardless of the stage of detection, investigation, or
2 prosecution, designated in Section 1101(a)(15)(U)(iii) of
3 Title 8 of the United States Code and any implementing federal
4 regulations, and includes one or more of the following or any
5 similar activity in violation of federal, State, or local
6 criminal law: rape; torture; trafficking; incest; domestic
7 violence; sexual assault; abusive sexual contact;
8 prostitution; sexual exploitation; stalking; female genital
9 mutilation; being held hostage; peonage; involuntary
10 servitude; slave trade; kidnapping; abduction; unlawful
11 criminal restraint; false imprisonment; blackmail; extortion;
12 manslaughter; murder; felonious assault; witness tampering;
13 obstruction of justice; perjury; fraud in foreign labor
14 contracting (as defined in Section 1351 of Title 18 of the
15 United States Code); or attempt, conspiracy, or solicitation to
16 commit any of the above mentioned crimes; and any criminal
17 activity that has an articulable similarity to any activity
18 listed under this definition, but is not specifically listed
19 under this definition. "Qualifying criminal activity" also
20 means any qualifying criminal activity that occurs during the
21 commission of non-qualifying criminal activity, regardless of
22 whether or not criminal prosecution was sought for the
23 qualifying criminal activity. Criminal activity may be
24 considered qualifying criminal activity regardless of how much
25 time has elapsed since its commission.

26 "Victim of qualifying criminal activity" means a person

1 who:

2 (1) (A) (i) has reported qualifying criminal activity to
3 a law enforcement agency or certifying agency; or (ii) has
4 otherwise participated in the detection, investigation, or
5 prosecution of qualifying criminal activity; and

6 (B) has suffered direct and proximate harm as a result
7 of the commission of any qualifying criminal activity,
8 including, but not limited to: (i) an indirect victim
9 regardless of the direct victim's immigration or
10 citizenship status, who, in any case in which the direct
11 victim is deceased, incompetent, or incapacitated, is the
12 direct victim's spouse, the direct victim's child under 21
13 years of age, or if the direct victim is under 21 years of
14 age, the direct victim's unmarried sibling under 18 years
15 of age or parent; or (ii) a bystander victim who suffers
16 direct physical or mental harm as a result of the
17 qualifying criminal activity, or

18 (2) was a victim of a severe form of trafficking in
19 persons as defined in Section 7102 of Title 22 of the
20 United States Code and Section 10-9 of the Criminal Code of
21 2012.

22 More than one victim may be identified and provided with a
23 certification form depending upon the circumstances. For
24 purposes of the definition of "victim of qualifying criminal
25 activity", the term "incapacitated" means unable to interact
26 with the law enforcement agency or certifying agency personnel

1 as a result of a cognitive impairment or other physical
2 limitation, because of physical restraint or disappearance, or
3 because the victim was a minor at the time the crime was
4 committed and reported.

5 Section 15. Prohibited immigration enforcement activities;
6 exceptions.

7 (a) A law enforcement agency or official shall not detain
8 or continue to detain a person solely on the basis of an
9 immigration detainer or nonjudicial immigration warrant after
10 that person becomes eligible for release from custody or
11 otherwise comply with an immigration detainer or nonjudicial
12 immigration warrant. However, in the exercise of discretion, a
13 law enforcement agency or official may comply with an
14 immigration detainer or nonjudicial immigration warrant
15 request if there is probable cause to believe that the person
16 has or is engaged in a terrorist act as defined by Section
17 29D-10 the Criminal Code of 2012.

18 (b) A law enforcement agency or official shall not stop,
19 arrest, search, detain, or continue to detain a person solely
20 based on the person's citizenship or immigration status, a
21 nonjudicial immigration warrant or immigration detainer, the
22 person's possession of a temporary visitor's driver's license
23 issued by the Secretary of State under the Illinois Vehicle
24 Code, or the person's possession of a passport, consular
25 identification document, or other identification document

1 issued by a foreign government. However, in the exercise of
2 discretion, a law enforcement agency or official may comply
3 with an immigration detainer or nonjudicial immigration
4 warrant if there is probable cause to believe that the person
5 has or is engaged in a terrorist act as defined by Section
6 29D-10 of Criminal Code of 2012.

7 (c) A law enforcement agency or official shall not inquire
8 about the citizenship or immigration status of a person,
9 including a crime victim, witness, or a person who calls or
10 approaches the law enforcement agency or official seeking
11 assistance, unless necessary to investigate criminal activity.
12 Nothing in this subsection (c) shall be construed to limit the
13 ability of a law enforcement agency or official to ask a person
14 in the law enforcement agency's custody about that person's
15 country of nationality for purposes of facilitating
16 communication with consular officers from that person's
17 country of nationality under the Vienna Convention on Consular
18 Relations.

19 (d) A law enforcement agency or official shall not enter
20 into an agreement under Section 1357(g) of Title 8 of the
21 United States Code or any other federal law that permits State
22 or local governmental entities to enforce federal civil
23 immigration laws.

24 (e) Nothing in this Section shall be construed to prohibit
25 or restrict an entity from sending to, or receiving from, the
26 United States Department of Homeland Security or other federal,

1 State, or local government entity information regarding the
2 citizenship or immigration status of a person under Sections
3 1373 and 1644 of Title 8 of the United States Code.

4 (f) Nothing in this Section shall be construed as
5 restricting an expenditure or activity necessary to the
6 performance by the State, a unit of local government, or a law
7 enforcement or other agency, official, employee, or agent of
8 any obligations under any contract between the State, the unit
9 of local government, or the agency and federal officials
10 regarding the use of a facility to detain persons in federal
11 immigration removal proceedings.

12 Section 20. Other prohibited activities; registry
13 programs. A State or local government agency or official shall
14 not expend any time, facilities, equipment, information, or
15 other resources of the agency or official to facilitate the
16 creation, publication, or maintenance of a federal program with
17 the purpose of registering or maintaining a database of persons
18 present in the United States based on their race, color,
19 ancestry, national origin, or religion.

20 Section 25. Certifications for victims of qualifying
21 criminal activity.

22 (a) Upon a receipt of a request from a victim of qualifying
23 criminal activity, as defined in Section 10 of this Act, or the
24 victim's representative for completion of a certification form

1 by a certifying agency, the designated certifying official for
2 the agency shall complete and issue the certification form,
3 except that the certifying official may decline, by written
4 notice to the requesting victim or the victim's representative,
5 to complete the certification form requested under this
6 subsection only if, after a good faith inquiry, the agency
7 cannot determine that the applicant is a victim of qualifying
8 criminal activity as defined in Section 10 of this Act. The
9 certifying official shall complete and issue the certification
10 form within 90 business days of receiving the request, except:

11 (1) if the victim of qualifying criminal activity is in
12 federal immigration removal proceedings or detained, then
13 the certifying official shall complete the certification
14 form no later than 14 business days after the request is
15 received by the agency; and

16 (2) if the victim's children, parents, or siblings
17 would become ineligible for benefits under Sections
18 1184(p) and 1184(o) of Title 8 of the United States Code by
19 virtue of the victim's children having reached the age of
20 21 years, the victim having reached the age of 21 years, or
21 the victim's sibling having reached the age of 18 years
22 within 90 business days from the date that the certifying
23 agency receives the certification request, the certifying
24 official shall complete the certification form no later
25 than 14 business days after the request is received by the
26 agency, or if the loss of the benefit would occur less than

1 14 business days of receipt of the certification request,
2 the certifying official shall complete a certification
3 form within 5 business days.

4 Requests for expedited completion of a certification form
5 under paragraphs (1) and (2) of this subsection (a) shall be
6 affirmatively raised by the victim or representative of the
7 victim in writing by the victim or representative of the victim
8 and shall establish that the victim is eligible for expedited
9 review.

10 (b) A request for completion of a certification form under
11 subsection (a) of this Section may be submitted by a
12 representative of the victim, including, but not limited to, an
13 attorney, accredited representative, or domestic violence
14 service provider.

15 (c) Each certifying agency has independent legal authority
16 to complete and issue a certification form. A certifying
17 official from each certifying agency shall perform the
18 following responsibilities:

19 (1) respond to requests for certifications as required
20 by this Section; and

21 (2) make information regarding the agency's procedures
22 for certification requests publicly available for victims
23 of qualifying criminal activity and their representatives.

24 (d) A certifying official shall complete and reissue a
25 certification form within 90 business days of receiving a
26 request to reissue. If the victim seeking recertification has a

1 deadline to respond to a request for evidence from United
2 States Citizenship and Immigration Services, the certifying
3 official shall complete and issue the form no later than 14
4 business days after the request is received by the certifying
5 official. Requests for expedited recertification shall be
6 affirmatively raised by the victim or representative of the
7 victim in writing by the victim or representative of the victim
8 and shall establish that the victim is eligible for expedited
9 review.

10 (e) Notwithstanding any other provision of this Section, a
11 certifying official's completion of a certification form shall
12 not be considered sufficient evidence that an applicant for a U
13 or T visa has met all eligibility requirements for that visa
14 and completion of a certification form by a certifying agency
15 shall not be construed to guarantee that the victim will
16 receive federal immigration relief. It is the exclusive
17 responsibility of federal immigration officials to determine
18 whether a person is eligible for a U or T visa. Completion of a
19 certification form by a certifying official merely verifies
20 factual information relevant to the immigration benefit
21 sought, including information relevant for federal immigration
22 officials to determine eligibility for a U or T visa. By
23 completing a certification form, the certifying official
24 attests that the information is true and correct to the best of
25 the certifying official's knowledge. If, after completion of a
26 certification form, the certifying official later determines

1 the person was not the victim of qualifying criminal activity
2 or the victim unreasonably refuses to assist in the
3 investigation or prosecution of the qualifying criminal
4 activity of which he or she is a victim, then the certifying
5 official may notify United States Citizenship and Immigration
6 Services in writing.

7 Section 30. Certain State-funded schools and facilities.

8 (a) It is the intent of the Illinois General Assembly to
9 recognize "safe zones" within the State of Illinois. These
10 "safe zones" are sensitive locations where persons should feel
11 safe and protected by the Fourth Amendment of the U.S.
12 Constitution, Article I, Section 6 of the Illinois
13 Constitution, and all other relevant Constitutional and legal
14 protections. It is in the best interest of this State and its
15 residents that children and adult learners feel safe while at
16 school, universities, libraries, and other educational
17 institutions, that persons seek medical attention without
18 fear, and that residents of this State present themselves at
19 court hearings, all without fear of unlawful arrest or family
20 separation without regard to race, religion, national origin,
21 gender identity, sexual orientation, or immigration status.

22 (b) Absent a judicial warrant or probable cause of criminal
23 activity (not including an offense related to immigration
24 status, including, but not limited to, a violation of Section
25 1253, 1304, 1306 (a) or (b), 1325, or 1326 of Title 8 of the

1 United States Code), law enforcement officials may not provide
2 assistance or support to immigration agents, as defined in
3 Section 10 in making arrests in the following State-funded
4 facilities:

5 (1) Schools, including licensed day care centers,
6 pre-schools, and other early learning programs; elementary
7 and secondary schools, and institutions of higher
8 education.

9 (2) Medical treatment and health care facilities,
10 including hospitals, health clinics, emergency or urgent
11 care facilities, nursing homes, group homes for persons
12 with developmental disabilities, community-integrated
13 living arrangements, and State mental health facilities.

14 (3) Public libraries.

15 (4) Facilities operated by the Office of the Secretary
16 of State.

17 (5) Circuit courts, State appellate courts, or the
18 Supreme Court.

19 (c) Employees of elementary and secondary schools in this
20 State and institutions of higher education in this State shall
21 not inquire about a student's citizenship or immigration status
22 or that of the student's family members, except in cases of
23 in-State or in-district tuition verification, scholarships,
24 grants, or services that are contingent upon this information
25 or otherwise required by law. State agencies and State-funded
26 medical treatment and health care facilities shall not inquire

1 about or request proof of citizenship or immigration status
2 when providing services or benefits, except when the receipt of
3 the services or benefits is contingent upon the person's
4 immigration or citizenship status or when inquiries are
5 otherwise required by law. State agencies and State-funded
6 medical treatment and health care facilities shall not collect
7 information regarding a person's citizenship or immigration
8 status, except as required by law.

9 (d) Beginning 120 days after the effective date of this
10 Act, except as required by law, no new applications,
11 questionnaires, or interview forms used in relation to
12 benefits, opportunities, or services provided by a State agency
13 or in-State or in-district tuition verification, scholarships,
14 grants, or services provided by a public elementary or
15 secondary school or public institution of higher education may
16 contain any questions regarding citizenship or immigration
17 status.

18 (e) Information or documents relating to a person's
19 citizenship or immigration status are confidential
20 information. Absent a judicial warrant or court-ordered
21 subpoena, a school, institution of higher education, State
22 agency, State-funded medical treatment, or healthcare facility
23 that collects information or documents relating to a person's
24 citizenship or immigration status under federal or State law
25 shall not disclose or otherwise make available to any person or
26 entity information or documents relating to a person's

1 citizenship or immigration status except when disclosure is
2 necessary between a facility listed in paragraph (2) of
3 subsection (b) of this Section and any other licensed health
4 care facility or professional for the provision of health care
5 and except as provided under subsection (g) of this Section.
6 Nothing in this Section is intended to prevent any entity from
7 exchanging aggregated, de-identified information with State,
8 local, or federal entities.

9 (f) A facility listed in paragraph (2) of subsection (b) of
10 this Section may deny access, delay access, or limit access by
11 law enforcement personnel, including immigration agents, based
12 upon the medical condition or safety of patients or staff or
13 based upon compliance with legal requirements, including
14 federal or State law governing patient privacy. A facility and
15 a person affiliated with that facility who, acting in good
16 faith, either grants or denies access to the facility by law
17 enforcement personnel, including an immigration agent, under
18 this Act shall be immune from any civil or criminal liability
19 based upon the decision to grant or deny access.

20 (g) Nothing in this Section shall be construed to prohibit
21 or restrict an entity subject to the requirements of Sections
22 1373 and 1644 of Title 8 of the United States Code from sending
23 to, or receiving from, the United States Department of Homeland
24 Security or any other federal, State, or local government
25 entity information regarding the citizenship or immigration
26 status of a person.

1 Section 35. Equal access to educational, rehabilitative,
2 and diversionary programs in the criminal justice system. A law
3 enforcement agency shall not consider an immigration detainer
4 or nonjudicial immigration warrant in determining a person's
5 eligibility or placement in any educational, rehabilitative,
6 or diversionary program described in the Unified Code of
7 Corrections or any other educational, rehabilitative, or
8 diversionary program administered by a law enforcement agency.

9 Section 100. The Illinois Police Training Act is amended by
10 adding Section 10.17-5 as follows:

11 (50 ILCS 705/10.17-5 new)

12 Sec. 10.17-5. Training program on federal nonimmigrant
13 visas. The Board shall conduct or approve a training program on
14 U and T nonimmigrant visas and other immigration remedies for
15 immigrant victims of qualifying criminal activity as defined in
16 Section 10 of the Illinois TRUST Act. A law enforcement
17 agency's continuing education program shall provide to the head
18 of the agency or the head of the agency's designee continuing
19 education concerning U and T nonimmigrant visas and continuing
20 education concerning cultural diversity awareness.

21 Section 105. The Code of Criminal Procedure of 1963 is
22 amended by changing Section 113-8 and by adding Section 110-5.2

1 as follows:

2 (725 ILCS 5/110-5.2 new)

3 Sec. 110-5.2. Bail for persons subject to an immigration
4 detainer. A person subject to an immigration detainer or
5 nonjudicial immigration warrant, as defined in Section 10 of
6 the Illinois TRUST Act, shall not be denied bail solely on the
7 basis of the immigration detainer or nonjudicial immigration
8 warrant. Nothing in this Section may be construed to undermine
9 the authority of a court to set bail or a bond determination
10 under this Article.

11 (725 ILCS 5/113-8)

12 Sec. 113-8. Advisement concerning status as an alien.
13 Before the acceptance of a plea of guilty, guilty but mentally
14 ill, or nolo contendere to a misdemeanor or felony offense, the
15 court shall give the following advisement to the defendant in
16 open court:

17 "If you are not a citizen of the United States, you are
18 hereby advised that conviction of the offense for which you
19 have been charged may have the consequences of deportation,
20 exclusion from admission to the United States, or denial of
21 naturalization under the laws of the United States.".

22 Nothing in this Section shall be construed to authorize or
23 direct any court to request that the defendant state his or her
24 immigration or citizenship status or to require that the

1 defendant provide that information.

2 (Source: P.A. 93-373, eff. 1-1-04.)

3 Section 110. The Probation and Probation Officers Act is
4 amended by changing Section 12 as follows:

5 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

6 Sec. 12. The duties of probation officers shall be:

7 (1) To investigate as required by Section 5-3-1 of the
8 "Unified Code of Corrections", approved July 26, 1972, as
9 amended, the case of any person to be placed on probation. Full
10 opportunity shall be afforded a probation officer to confer
11 with the person under investigation when such person is in
12 custody.

13 (2) To notify the court of any previous conviction for
14 crime or previous probation of any defendant invoking the
15 provisions of this Act.

16 (3) All reports and notifications required in this Act to
17 be made by probation officers shall be in writing and shall be
18 filed by the clerk in the respective cases.

19 (4) To preserve complete and accurate records of cases
20 investigated, including a description of the person
21 investigated, the action of the court with respect to his case
22 and his probation, the subsequent history of such person, if he
23 becomes a probationer, during the continuance of his probation,
24 which records shall be open to inspection by any judge or by

1 any probation officer pursuant to order of court, but shall not
2 be a public record, and its contents shall not be divulged
3 otherwise than as above provided, except upon order of court;
4 provided that no probation officer shall communicate with
5 federal Immigration and Customs Enforcement, or any successor
6 agency regarding a probationer's case information, check-in
7 information, or contact information as defined in Section 10 of
8 the Illinois TRUST Act, unless otherwise required by law.

9 (5) To take charge of and watch over all persons placed on
10 probation under such regulations and for such terms as may be
11 prescribed by the court, and giving to each probationer full
12 instructions as to the terms of his release upon probation and
13 requiring from him such periodical reports as shall keep the
14 officer informed as to his conduct.

15 (6) To develop and operate programs of reasonable public or
16 community service for any persons ordered by the court to
17 perform public or community service, providing, however, that
18 no probation officer or any employee of a probation office
19 acting in the course of his official duties shall be liable for
20 any tortious acts of any person performing public or community
21 service except for wilful misconduct or gross negligence on the
22 part of the probation officer or employee.

23 (7) When any person on probation removes from the county
24 where his offense was committed, it shall be the duty of the
25 officer under whose care he was placed to report the facts to
26 the probation officer in the county to which the probationer

1 has removed; and it shall thereupon become the duty of such
2 probation officer to take charge of and watch over said
3 probationer the same as if the case originated in that county;
4 and for that purpose he shall have the same power and authority
5 over said probationer as if he had been originally placed in
6 said officer's charge; and such officer shall be required to
7 report in writing every 6 months, or more frequently upon
8 request the results of his supervision to the probation officer
9 in whose charge the said probationer was originally placed by
10 the court.

11 (8) To authorize travel permits to individuals under their
12 supervision unless otherwise ordered by the court.

13 (9) To perform such other duties as are provided for in
14 this act or by rules of court and such incidental duties as may
15 be implied from those expressly required.

16 (10) To send written notification to a public housing
17 agency if a person on probation for a felony who is under the
18 supervision of the probation officer informs the probation
19 officer that he or she has resided, resides, or will reside at
20 an address that is a housing facility owned, managed, operated,
21 or leased by that public housing agency.

22 (11) If a person on probation for a felony offense who is
23 under the supervision of the probation officer becomes a
24 resident of a facility licensed or regulated by the Department
25 of Public Health, the Illinois Department of Public Aid, or
26 Illinois Department of Human Services, the probation officer

1 shall within 3 days of the person becoming a resident, notify
2 the licensing or regulating Department and licensed or
3 regulated facility and shall provide the licensed or regulated
4 facility and licensing or regulating Department with copies of
5 the following:

6 (a) (blank);

7 (b) any applicable probation orders and corresponding
8 compliance plans;

9 (c) the name and contact information for the assigned
10 probation officer.

11 (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

12 Section 997. Severability. The provisions of this Act are
13 severable under Section 1.31 of the Statute on Statutes."