ACLU
AMERICAN CIVIL LIBERTIES UNION
Maine

ACLU of Maine Legal Analysis of Maine's New ICE Out Laws[1]

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I. Introduction

[1] Last updated June 30, 2026.

In 2025 and 2026, the Maine legislature passed a package of important bills to protect Maine's immigrant residents and ensure they can access state and local services without fear that doing so will lead them or their loved ones to be targeted by federal immigration authorities. This suite of laws, collectively referred to here as the ICE Out laws,[2] will become effective on July 29, 2026.

Together, these laws keep ICE out of critical domains of our daily life. *First*, a pair of new laws keep ICE out of policing. The primary ICE Out of Policing law, LD 1971,[3] prohibits state, county, and local law enforcement agencies from engaging in most forms of cooperation with federal immigration enforcement efforts. A companion ICE Out of Policing law, LD 2058,[4] clarifies that a longstanding Maine law requiring jails to hold criminal arrestees for other law enforcement agencies does not require jails to hold civil arrestees for ICE or Border Patrol (or any other agency carrying out civil immigration enforcement). *Second*, a new law keeps ICE out of schools and healthcare. The ICE Out of Schools and Healthcare law, LD 2106,[5] bars public schools, state healthcare institutions, and state libraries from giving immigration enforcement agents access to nonpublic areas or providing access to sensitive records unless they can produce a valid judicial warrant. *Third,* a new law keeps ICE out of our homes. The ICE Out of Our Homes law, LD 2176,[6] prohibits landlords from disclosing certain personal information about tenants, including tenants' national origin or immigration status.

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[2] Though these laws are collectively referred to as the ICE Out laws, for ease of reference, but they apply broadly to limit Maine law enforcement's collaboration immigration enforcement activities regardless of which agency is carrying them out, whether that is U.S. Immigration and Customs Enforcement ("ICE"), Homeland Security Investigations ("HSI," a subcomponent of ICE), U.S. Customs and Border Protection ("CBP"), U.S. Border Patrol (a subcomponent of CBP), any other part of the U.S. Department of Homeland Security ("DHS," the executive department in which ICE and CBP or housed), or any other federal, state, or local agency carrying out civil immigration enforcement activities.

[3] "An Act to Protect Workers in This State by Clarifying the Relationship of State and Local Law Enforcement Agencies with Federal Immigration Authorities," P.L. 2026, Ch. 517, https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1315&item=3&snum=132; *codified at* 5 M.R.S. §§ 4761-4765.

[4] "An Act to Clarify the Requirement That Municipal and County Jails Be Available at All Times for Detention of Arrested Persons," P.L. 2026, Ch. 671, https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0845&item=3&snum=132, *codified at* 25 M.R.S. § 1502.

[5] "An Act to Limit Consent for Entry into Nonpublic Areas of and to Limit Access to Protected Records Maintained by Certain Public Entities," 2026 Ch. 770, https://legislature.maine.gov/bills/getPDF.asp?paper=HP1421&item=3&snum=132, *codified at* 5 M.R.S. § 200-O; 20-A M.R.S. § 14; 22 M.R.S. § 1730-B; 27 M.R.S. § 109-A.

[6] "An Act to Safeguard Personal Information and Strengthen Tenant Rights in Maine," P.L. 2026, ch. 767, https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0881&item=4&snum=132; *codified at* 5 M.R.S. §§ 4651(2)(C), 6025(3), 6025-B.

These ICE Out laws tackle the federal government's unconstitutional mass deportation campaign from multiple angles, helping to ensure that Maine's immigrant residents can safely access essential locations like schools and hospitals, housing, and public safety. As the effective date of the ICE Out laws approaches, the ACLU of Maine has prepared this memorandum to explain the new legal landscape. We invite schools, healthcare facilities, law enforcement agencies, trade associations, and others whose members or constituencies might be regulated by Maine's ICE Out laws to borrow liberally from our analysis. (Read: *we're doing your compliance work for you.*)

II. Understanding and implementing the ICE Out of Policing laws[7]

Maine's primary ICE Out of Policing law, LD 1971, limits Maine law enforcement's participation in the federal government's immigration crackdown in several important ways, including by prohibiting: (1) civil immigration detention in Maine jails (including honoring ICE detainers, Border Patrol holds, and ICE detention contracts); (2) jail communications with ICE about release dates; (3) police handovers to ICE; (4) using immigration enforcement officers for "interpretation" services; and (5) 287(g) agreements deputizing Maine police to perform federal immigration enforcement. An important companion ICE Out of Policing law, LD 2058, removes an obstacle to LD 1971's implementation: It makes clear that a mandate requiring county jails to accept individuals arrested by other law enforcement agencies does not extend to people arrested for civil immigration violations.

Below, this memo explains (1) the entities and activities regulated by the ICE Out of Policing laws; (2) the specific practices prohibited by the ICE Out of Policing laws; and (3) the activities that remain unaffected by the ICE Out of Policing laws.

A. Entities and activities regulated by the ICE Out of Policing laws.

To understand the ICE Out of Policing laws, it is important to understand the outer bounds of who and what the laws regulate. As explained below, those bounds are set by key terms in the primary law's definitions section, found at 5 M.R.S. § 4761, including the terms "law enforcement agency," "immigration enforcement," and "immigration authority."

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[7] "An Act to Protect Workers in This State by Clarifying the Relationship of State and Local Law Enforcement Agencies with Federal Immigration Authorities," P.L. 2026, Ch. 517, https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1315&item=3&snum=132; *codified at* 5 M.R.S. §§ 4761-4765, *and* "An Act to Clarify the Requirement That Municipal and County Jails Be Available at All Times for Detention of Arrested Persons," P.L. 2026, Ch. 671, https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0845&item=3&snum=132, *codified at* 25 M.R.S. § 1502.

B. Who the law regulates: Maine law enforcement agencies.

The primary ICE Out of Policing law regulates any agency within Maine that is "charged with enforcement of state, county or municipal laws or with managing custody of detained persons," including any "employee" or "agent" working for them. 5 M.R.S. § 4761(7) (definition of "law enforcement agency"). Specific examples cited in the statute include municipal and university police departments, sheriff's departments, and the Maine State Police, Maine Department of Corrections, and Maine Department of Public Safety.

C. What the law regulates: Collaboration with "immigration enforcement" and "immigration authorit[ies]."

The primary ICE Out of Policing law places strict limits on how and when Maine law enforcement can participate in "immigration enforcement" and assist "immigration authorit[ies]." Both terms are defined very broadly (*see* 5 M.R.S. § 4761):

- "immigration enforcement" means "*any* effort to investigate, enforce or assist in the investigation or enforcement" of federal civil immigration law."
- "immigration authority" means *any* "person performing immigration enforcement functions," whether that person is a "federal, state or local officer."

D. Specific practices prohibited by the ICE Out of Policing laws.

The primary ICE Out of Policing law's substantive provisions prevent or limit Maine law enforcement from engaging in many types of collaboration with federal immigration authorities. Below, this memo discusses common practices the ICE Out of Policing laws bar or limit, provides the statutory bases for the relevant bar or limit, and provides examples of existing practices that will no longer be lawful after the new laws go into effect on July 29, 2026.

1. No civil immigration detention in local jails.

a. No honoring ICE detainers.

The law expressly prohibits state and local law enforcement agencies, including their employees, from "detaining a person solely on the basis of a hold request." 5 M.R.S. § 4763(1)(A)(2). The term "hold request" is broadly defined as any request by an immigration authority that a law enforcement agency "maintain custody . . . beyond the time the person would otherwise be eligible for release in order to facilitate

transfer to the immigration authority." 5 M.R.S. § 4761(2).[8] This includes "immigration detainer[s]" styled as civil or administrative warrants. 5 M.R.S. § 4763(1)(A)(2), (1)(A)(4).[9]

The law bans Maine jails and prisons from detaining people based on any request by an immigration authority—whether a formal ICE detainer or a more informal hold request—for ***any period of time*** beyond when they are otherwise eligible for release. The law likewise bars jails and prisons from responding in any way to a hold request by an immigration authority—including providing information about the individual's detention status, location, or release date. Such actions are a prohibited use of agency personnel under the law. Moreover, upon receipt of a hold request from an immigration authority, Maine state and local law enforcement agencies are required to immediately provide a copy of that request to the person in custody and notify the person that law enforcement is prohibited from detaining the person based on the hold request. 5 M.R.S. § 4764(2).

Any law enforcement agencies that have a practice of honoring ICE holds or detainers and detaining individuals for a period beyond the time they are otherwise eligible for release (whether a few minutes, a few hours, or a few days) are required to discontinue this practice by the effective date of the law, July 29, 2026. Likewise, any law enforcement agencies that have a practice of not informing detained individuals upon receipt of a hold request or ICE detainer must bring their notification practices into compliance by the effective date of the law.

Finally, the law requires law enforcement agencies to retain copies of hold requests and accompanying documentation for a period of four years.

b. No Border Patrol holds.

The law bans state and local law enforcement agencies from "us[ing]" agency "money or personnel to … detain … a person for immigration enforcement purposes." 5 M.R.S. § 4763(1)(A). This prohibition squarely bar jails from holding people dropped off by

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[8] *See also* 5 M.R.S. § 4763(1) (banning law enforcement from "us[ing] agency or department money or personnel to … detain ... a person for immigration enforcement purposes").

[9] Immigration detainers are voluntary requests that do not bind local law enforcement authorities or provide independent state law authority for local law enforcement authorities to make an arrest or extend detention. *See, e.g. N.S. v. Dixon*, 141 F.4th 279, 282–83 (D.D.C. 2025) (holding that "an ICE detainer is a 'request,' not an order, for another law enforcement agency to hold a particular alien"); *Lunn v. Commw. of Mass.*, 78 N.E.3d 1143, 1146, 1152–60 (Mass. 2017) (holding that it violated Massachusetts law for a Massachusetts law enforcement officer to extend a person's detention based on an immigration detainer, because a detainer is a voluntary request and Massachusetts law does not independently authorize Massachusetts law enforcement officers to extend detention based on such a request); *Galarza v. Szalczyk*, 745 F.3d 634, 640–42 (3d Cir. 2013).

Border Patrol on so-called "Border Patrol holds" for ***any period of time***, whether a few minutes, a few hours, or a few days.

Any Maine jails that have engaged in the practice of receiving and holding people who have been arrested by Border Patrol on so-called "Border Patrol holds" (such as, for example, the Franklin County Jail) are required to discontinue that practice by the effective date of the law.

c. Jails not required—or permitted—to hold people arrested for civil immigration violations.

Under a longstanding Maine law codified at 25 M.R.S. § 1502, municipal and county jails were required to "be available for detention of persons arrested by state or any other law enforcement officers" "at all times." According to the legislative record, this "no-turnback" provision of Section 1502 was intended to require Maine jails to receive and detain individuals charged by state police or other local law enforcement agencies with state criminal offenses.[10]

In March 2025, the Maine Department of Corrections ("DOC") issued a Correctional Standard that went beyond the scope of Maine law, attempting to expand Section 1502's no-turnback provision to broadly bar jails from "refus[ing] to admit an individual who has been arrested by a federal, state, county or municipal law enforcement officer and transported to the jail," including noncitizens arrested by ICE and CBP for civil immigration violations. Correctional Standard P.32.[11] And in August 2025, the Maine Department of Corrections issued a letter to the County Correctional Professional Standards reiterating this interpretation of 25 M.R.S. § 1502, stating that under the law "county jails are legally obligated to accept detainees presented by federal law enforcement officers," including federal immigration authorities. The DOC letter also obliquely suggested that 25 M.R.S. § 1502's no-turnback provision might require jails to continue detaining "individuals

[10] The legislative history makes clear that the 1964 amendment adding the single sentence quoted above to Section 1502 was enacted solely to govern cooperation between local and state law enforcement regarding *criminal* detainees, and had nothing to do with cooperation between local jails and ICE regarding *civil immigrant* detainees. The Emergency Preamble to the 1964 law expressly states that it was an emergency measure because the "arrest and detention of persons alleged to have committed crimes is a statutory responsibility of state law enforcement officers," but there was "no statutory provision for the detention of such persons," and therefore these facts created an emergency requiring immediate legislation to fill the gap. Pub. L. 1963, c. 436, https://lldc.mainelegislature.org/Open/Laws/1963/1963_PL_c436.pdf.

[11] Detention and Correctional Standards for Maine Muicipalities, State of Maine Dep't of Corrections (March 24, 2025), https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/Adopted%20DETENTION%20AND%20CORRECTIONAL%20STANDARDS%20FOR%20MAINE%20COUNTIES%20AND%20MUNIPALITIES%20CLEAN_0.PDF

already in custody" for a "48-hour detainer period" if requested by "federal immigration authorities." Nothing in the text of Section 1502 ever authorized—let alone required—jails to extend someone's detention beyond the time of their release to allow another law enforcement agency to make a new, distinct arrest.

The Maine legislature passed LD 2058[12] to clarify that Section 1502's no-turnback provision does not impose any obligation or confer any authority on Maine jails to accept into custody individuals charged with civil immigration violations by federal immigration authorities. This new law acts as a companion to the primary ICE Out of Policing law, LD 1971.

Because the revised text of Section 1502 makes clear that its no-turnback provision does not extend to individuals held in civil immigration custody, and because the ICE Out of Policing law prohibits jails from holding people in civil immigration custody or any amount of time, Maine DOC must take action to withdraw or revise Correctional Standard P.32 before the effective date of the law, July 29, 2026.[13] To the extent Maine DOC fails to do so, Maine jails must disregard Correctional Standard P.32 as of July 29, 2026 to the extent it requires or permits them to accept individuals in civil immigration custody, because Maine's ICE Out of Policing laws invalidate Correctional Standard P.32. *See, e.g., Me. State Chamber of Comm. v. Me. Dep't of Labor*, 2025 ME 82, ¶ 13 ("An agency rule that conflicts with the language of the statute exceeds the statutory authority of the agency."); *Lippitt v. Bd. of Certification for Geologists & Soil Scientists*, 2014 ME 42, ¶ 17 ("The plain meaning of a statute always controls over an inconsistent administrative interpretation.").

d. No jail contracts to hold people in civil immigration custody.

The law prohibits Maine state and local law enforcement from "us[ing]" agency "money or personnel to … detain … a person for immigration enforcement purposes." 5 M.R.S. § 4763(1)(A). This broad language bars entering into contracts to hold immigrant detainees on the federal government's behalf for civil immigration violations, regardless of the label or form those contracts take.

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[12] "An Act to Clarify the Requirement That Municipal and County Jails Be Available at All Times for Detention of Arrested Persons," P.L. 2026, Ch. 671, https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0845&item=3&snum=132, *codified at* 25 M.R.S. § 1502.

[13] Another Maine no-turnback statute, 30-A M.R.S. § 1554, only applies to federal "prisoners," i.e. people who have been convicted of and sentenced for a crime, so likewise does not extend to people in civil immigration custody. *See* 30-A M.R.S. § 1510 (defining "prisoner").

Under the law, any law enforcement agency with an existing contract for ICE detention (such as Two Bridges Regional Jail)[14] must exercise their existing contractual rights to end that agreement by the effective date of the law. Likewise, any law enforcement agency that previously had a contract for ICE detention (such as Cumberland County Jail)[15] will be barred from entering into a new contract. Finally, any law enforcement agency with an existing contract for Border Patrol detention must exercise their contractual rights to end that agreement by the effective date of the law.[16]

2. No jail communications with ICE about release dates.

The law expressly prohibits law enforcement agencies from "[p]roviding to immigration authorities information regarding the person's release date" that is not "available to the public." 5 M.R.S. § 4763(1)(A)(3); *see also* §4763(1)(A)(4) (prohibiting law enforcement agencies from "[p]roviding to immigration authorities personal information about the person").

Further, *any* affirmative step jails take to notify ICE about a person's anticipated release to aid ICE in arresting that person upon release from the jail is plainly a "use" of agency "money or personnel to … detain" or "arrest … a person for immigration enforcement purposes," which the law also bars. 5 M.R.S. § 4763(1)(A).

Accordingly, Maine jails are now barred from, for example, notifying ICE that a person in the jail's custody is expected to post bail the following day, or that an individual is expected to be released following a court appearance that afternoon.

Any Maine jails with existing policies or practices of proactively notifying ICE about people's anticipated release (such as Cumberland County Jail's policy requiring that

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[14] ACLU of Maine, *Policies and Contracts*, https://www.aclumaine.org/app/uploads/2025/12/Two-Bridges-USMS-July-2022-IGA-Modification.pdf (last visited June 2, 2026); *see also* Office of Professional Responsibility, Two Bridges Regional Jail Inspection (May 5, 2026), https://www.ice.gov/doclib/foia/odo-compliance-inspections/TwoBridgesRegJail_WiscassetME_05052026.pdf.

[15] *Id.*, https://www.aclumaine.org/app/uploads/2025/12/CCJ-USMS-Detention-Services-Intergovernmental-Agreement-4-8-2024-Unsigned-unredacted.pdf (last visited June 2, 2026). Somerset County Jail also has an existing contract for ICE detention. *Id.*, https://www.aclumaine.org/app/uploads/2026/05/Somerset-FED-Contract-2025.pdf (last visited June 2, 2026).

[16] Franklin County Jail has an existing contract for Border Patrol detainees. *Id.* https://www.aclumaine.org/app/uploads/2026/05/MOU-Final_USBP-Franklin-County-Final-SIGNED-PDF-1-1.pdf (last visited June 2, 2026). The York County Jail also has an existing contract for Border Patrol detainees. *Id.* https://www.aclumaine.org/app/uploads/2026/05/Border-Patrol-MOU.pdf (last visited June 2, 2026).

jail staff provide 48-hour advance notice of a person's expected release)[17] must discontinue that practice and update their policies by the effective date of the law.

3. No police handovers to immigration authorities.

a. No traffic stop handovers.

The law expressly prohibits law enforcement from "transfer[ring] a person to an immigration authority" unless the immigration authority has a court order or criminal warrant. 5 M.R.S. § 4763(1)(D); *see also* § 4763(1)(A)(6) (prohibiting law enforcement agencies from "assisting immigration authorities in activities described in" 8 U.S.C. § 1357(a)(3), which purports to authorize warrantless federal actions "within a reasonable distance" of U.S. borders, including boarding and searching for non-citizens in vehicles or other conveyances). This part of the law straightforwardly bars local and state police from conducting a traffic stop and then facilitating the transfer of the stopped individuals to immigration custody. Accordingly, this practice by Maine local and state law enforcement must cease by the effective date of the law.[18]

b. No extending police stops at immigration authority's request.

Even if an initial stop is justified at its inception (for example, it was a valid traffic stop under state law), the law prohibits police from extending the stop at an immigration authority's request for any period beyond the time needed for the original traffic stop. The ban applies alike to traffic stops, stops of pedestrians in public spaces, and home arrests. The ban prohibits police from extending a traffic stop on the roadside, and likewise prohibits police from bringing people from the site of the traffic stop to a local police station to hold them for ICE or Border Patrol pick-ups. These practices violate the law's express ban on "making or intentionally participating in an arrest based upon a hold request," 5 M.R.S. § 4763(1)(A)(5); *see also* § 4761(2) (broadly defining "hold request" as a request issued by immigration authority that law enforcement agencies "maintain custody … beyond the time the person would otherwise be eligible for release in order to facilitate transfer to the immigration authority.") These practices likewise violate the law's general prohibition on "us[ing]" agency "money or personnel to … investigate, interrogate, detain, detect, stop, arrest, or search a person for immigration enforcement purposes." *Id.* § 4763(1)(A).

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[17] *Id.* https://www.aclumaine.org/app/uploads/2025/12/C-210-Release-Procedures.pdf (last visited June 2, 2026).

[18] *See generally* ACLU of Maine, *Local Law Enforcement Stops & Handovers*, https://www.aclumaine.org/publications/local-law-enforcement-stops-hand-overs/ (last visited June 2, 2026).

In the past eighteen months, there have been multiple documented examples of Maine police extending traffic stops at ICE or Border Patrol's request.[19] The practice of Maine police conducting traffic or pedestrian stops and then extending that stop for any period (whether a few minutes or a few hours) at an immigration authority's request must cease by the effective date of the law.

c. No assisting Border Patrol with warrantless stops in the "100-mile zone."

The law expressly prohibits law enforcement agencies from "assisting immigration authorities in activities described in" 8 U.S.C. § 1357(a)(3), which purports to authorize warrantless federal actions "within a reasonable distance" of U.S. borders including boarding and searching for non-citizens in vehicles or other conveyances without a warrant. 5 M.R.S. § 4763(1)(A)(6). This provision prohibits law enforcement from assisting Border Patrol or other immigration authorities from conducting warrantless stops of vehicles within the so-called "100-mile" zone of the border.

d. No calling Border Patrol to a traffic stop for interpreter services.

The law expressly prohibits law enforcement agencies from using an immigration authority as an interpreter for local matters. 5 M.R.S. § 4763(1)(C). The practice of local and state police conducting a traffic stop and then calling in Border Patrol for interpreter services must be discontinued by the effective date of the law.

4. No assisting with civil immigration enforcement under Operation Stonegarden.

The law prohibits Maine law enforcement from engaging in all activities involved in assisting Border Patrol with civil immigration enforcement. This includes accepting overtime shifts via Operation Stonegarden to assist with immigration enforcement, and other similar collaboration.[20]

5. No proactive inquiries or custody alerts to ICE or Border Patrol.

The law broadly bans "us[ing] agency or department money or personnel to investigate . . . a person for immigration enforcement purposes." Given the broad scope of the law's definition of "immigration enforcement," this bars local law

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[19] *See, e.g.*, *id.* at https://www.aclumaine.org/app/uploads/2026/02/May-31-Police-Report-pdf.pdf (last visited June 2, 2026); https://www.aclumaine.org/app/uploads/2025/12/January-13-Police-Report.pdf (last visited June 2, 2026).

[20] *See* Paul Heintz, *Why dozens of local police agencies in New England are patrolling the northern border*, Boston Globe (Nov. 11, 2025) https://www.bostonglobe.com/2025/11/11/metro/operation-stonegarden-northern-border/.

enforcement from initiating any inquiry or alert to federal immigration authorities regarding whether someone is suspected of violating civil immigration law.

6. No 287(g) agreements.

The law expressly bans law enforcement agencies from "performing the functions of an immigration authority" 5 M.R.S. § 4763(1)(A)(7). This functions as a blanket prohibition on state and local law enforcement from entering into 287(g) agreements, formal partnerships with ICE that allow local officers to perform designated immigration enforcement functions. Immigration and Nationality Act, § 287(g). Section 287(g) agreements likewise violate the Act's prohibition on "us[ing]" agency "money or personnel to … investigate, interrogate, detain, detect, stop, arrest, or search a person for immigration enforcement purposes." 5 M.R.S. § 4763(1)(A).

E. Law Enforcement Activities Unaffected by ICE Out of Policing Laws.

The ICE Out of Policing laws define specific law enforcement activities that either remain unaffected or are expressly permitted by the laws. These are outlined below.

1. Exchanging specified information under federal law.

The law states that it should "not be construed to prohibit" Maine law enforcement from exchanging information "regarding the immigration status of a person" with an immigration authority under one of two federal laws, 8 U.S.C. § 1373 or § 1644. 5 M.R.S. § 4762(1). This carve-out is narrow, as 8 U.S.C. § 1373 and § 1644 only concern exchanging whether a person is a U.S. citizen, and, if not, what if any immigration status they have. Neither federal statute authorizes or requires local law enforcement to provide any other information about a person, such as whether they are in local law enforcement custody, their release date, or any of their personally identifiable information. *San Francisco v. Garland*, 42 F.4th 1078, 1083 (9th Cir. 2022). And voluntarily providing any of that additional information to assist ICE or CBP in investigating whether a person has violated civil immigration law is barred by the law's broad prohibition on "us[ing] agency or department money or personnel to investigate . . . a person for immigration enforcement purposes." 5 M.R.S. § 4763(1)(A).[21]

[21] Whether 8 U.S.C. § 1373 and 1644 have any force at all is not clear, as Courts across the country have held that they violate the 10th Amendment of the U.S. Constitution. *See, e.g.*, *Chicago v. Sessions*, 321 F. Supp. 3d 855, 872–73 (N.D. Ill. 2018), aff'd, 961 F.3d 882 (7th Cir. 2020); *Philadelphia v. Sessions*, 309 F. Supp. 3d 289, 328–31 (E.D. Pa. 2018); *Oregon v. Trump*, 406 F. Supp. 3d 940, 971–73 (D. Or. 2019), *vacated as moot*, 42 F.4th 1078 (9th Cir. 2022); *see also Colorado v. DOJ*, 455 F. Supp. 3d 1034, 1059-60 (D. Colo. 2020).

2. Responding to a request for a specific person's public criminal history information.

The law permits Maine law enforcement to respond to a federal immigration authority's request about a specific person's public criminal history record information when doing so is otherwise allowed under state law. 5 M.R.S. §4763(2)(B). This provision simply clarifies that the law does not require Maine law enforcement to deny a request for public criminal history information that any public entity or other requester would be entitled to receive through the Maine Freedom of Access Act just because the requester is an immigration authority.

3. Investigating certain enhanced criminal penalties.

The law has a limited exception permitting state and local law enforcement to investigate or take enforcement action against a person upon reasonable suspicion of a specific type of criminal penalty "enhancement" defined by federal law. 5 M.R.S. §§ 4762(2), 4763(2)(A). This exception applies *only* when law enforcement agencies have reasonable suspicion of an enhanced criminal penalty as narrowly defined by 8 U.S.C. §1326(b)(2). Section 1326(b)(2) is a provision of federal immigration law that imposes increased criminal penalties on individual who (1) was convicted for an "aggravated felony," (2) was removed from the United States after the aggravated felony conviction, *and* (3) then unlawfully re-entered the United States after the felony conviction and removal. Thus, for this exception to apply, state and local law enforcement must have reasonable suspicion that all three of these requirements have been met: an aggravated felony conviction, a prior removal, and a subsequent unlawful re-entry. "Reasonable suspicion" is not a mere hunch or speculation: It requires that the law enforcement officer has specific, articulable facts that would lead them to reasonably conclude that each of these three requirements has been met. In addition, this exception applies only during law enforcement activity "unrelated" to immigration enforcement

4. Participating in a Joint Law Enforcement Task Force.

The law permits law enforcement agencies to conduct certain enforcement or investigative activities as part of a "joint law enforcement task force." 5 M.R.S. § 4763(2)(C). However, these joint task force functions are permitted only if three separate requirements are met: (1) the "primary purpose" of the joint task must not be for "immigration enforcement"; (2) the duties must be "primarily related to a violation of state or federal law, including but not limited to terrorism, drug trafficking or human trafficking; and (3) the task force participation must not violate any governing local or state law or policy. 5 M.R.S. § 4763(2)(C).

5. Making inquiries to support visa applications.

The law permits Maine law enforcement to make inquiries to obtain information needed to certify a T-Visa, available to certain noncitizens who are victims of human trafficking, or a U-Visa, available to certain noncitizens who are victims of a crime and willing to assist law enforcement. 5 M.R.S. § 4763(2)(D). The T and U Visa programs are important law enforcement tools created by Congress to help noncitizen victims come forward to share information, assist in investigations, and serve as witnesses.

6. Providing access to individuals for interviews upon court order.

The law permits law enforcement agencies to give access to federal immigration authorities to interview a person in state custody, but only if the interview request is accompanied by a valid court order. 5 M.R.S § 4763(2)(E).

III. Understanding and implementing Maine's ICE Out of Schools and Healthcare law[22]

For decades, DHS had a longstanding policy prohibiting immigration arrests at sensitive locations like schools, healthcare facilities, and libraries, given the serious public health and safety consequences of conducting enforcement at these places.[23] In January of 2025, the Trump Administration rescinded that policy, unleashing ICE to pursue arrests even in these highly sensitive areas.[24]

The ICE Out of Schools and Healthcare law responds to this development by limiting federal immigration authorities' access to sensitive locations throughout the state. The law directs the Attorney General's Office to issue model policies limiting federal immigration enforcement in sensitive locations "to the fullest extent possible," to "ensur[e] that facilities providing services to members of the public remain safe and accessible to all state residents regardless of immigration status."

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[22] "An Act to Limit Consent for Entry into Nonpublic Areas of and to Limit Access to Protected Records Maintained by Certain Public Entities," 2026 Ch. 770, https://legislature.maine.gov/bills/getPDF.asp?paper=HP1421&item=3&snum=132, *codified at* 5 M.R.S. § 200-O; 20-A M.R.S. § 14; 22 M.R.S. § 1730-B; 27 M.R.S. § 109-A.

[23] *See, e.g.,* Memorandum from Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec, Guidelines for Enforcement Actions in or Near Protected Areas (Oct. 27, 2021), https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw10272021.pdf.

[24] Memorandum from Benjamine C. Huffman, Acting Sec'y, U.S. Dep't of Homeland Sec., Enforcement Actions in or Near Protected Areas (Jan. 20, 2025), https://www.dhs.gov/sites/default/files/2025-03/25_0120_S1_enforcement-actions-in-near-protected-areas.pdf.

The law requires that public schools, state healthcare facilities, and state libraries adopt the AG's model policies by December 27, 2026 (3 months after they are published by the AG's office). The law further *allows*, but does not *require*, that private schools, non-state healthcare facilities, childcare facilities, non-state public libraries, and houses of worship adopt the AG's model policies limiting immigration enforcement at those sites.

A. Limiting immigration enforcement at schools and childcare facilities.

The ICE Out of Schools and Healthcare law limits immigration authorities' ability to access public schools and state postsecondary educational institutions in several important ways.

First, the law prevents anyone acting on behalf of a public school or state-post-secondary educational institution from voluntarily consenting to law enforcement entering nonpublic areas of the school for immigration enforcement purposes. 5 M.R.S. § 14.

Second, the law prevents anyone acting on behalf of a public school or state post-secondary school from voluntarily consenting to law enforcement accessing education records for immigration enforcement purposes. 5 M.R.S. § 14.

Third, the law requires the Attorney General's Office to promulgate model policies and guidance limiting immigration authorities' ability to access schools' nonpublic areas and education records to the fullest extent possible, in order to "ensur[e] that facilities providing services to members of the public remain safe and accessible to all state residents regardless of immigration status." 5 M.R.S. § 200-O(1). The Attorney General's Office must publish its model school policies limiting immigration enforcement in schools by September 27, 2026 (60 days after the law's effective date). 5 M.R.S. § 200-O(2)(A). Public schools and state postsecondary educational institutions are required to adopt the AG's model policies by December 27, 2026 (3 months after they are published by the AG's office). 5 M.R.S. § 200-O (2)(A). Childcare facilities, private preschools, private K-12 schools, and private post-secondary educational institutions may—but are not required to—adopt the AG's model policies.

B. Limiting immigration enforcement at healthcare facilities.

The ICE Out of Schools and Healthcare law also limits immigration authorities' ability to access healthcare facilities in several important ways.

First, the law prevents anyone acting on behalf of a state psychiatric institution (that is, Riverview or Dorothea Dix) from consenting to law enforcement entering nonpublic areas of the facility for immigration enforcement purposes. 22 M.R.S. § 1730-B(1)(E); § 1730-B(2). The law further prevents anyone acting on behalf of a state

psychiatric institution from consenting to law enforcement accessing protected healthcare records for immigration enforcement purposes. *Id.* § 1730-B(3).

Second, the law requires the Attorney General's Office to promulgate model policies and guidance limiting immigration authorities' ability to access healthcare facilities' nonpublic areas and protected healthcare records to the fullest extent possible, in order to "ensur[e] that facilities providing services to members of the public remain safe and accessible to all state residents regardless of immigration status." 5 M.R.S. § 200-O(1). The Attorney General's Office must publish its model policies limiting immigration enforcement in healthcare facilities by September 27, 2026 (60 days after the law's effective date). 5 M.R.S. § 200-O (2)(A). State psychiatric institutions are required to adopt the AG's model policies by December 27, 2026 (3 months after they are published by the AG's office). 5 M.R.S. § 200-O (2)(A). Healthcare facilities and residential treatment facilities may—but are not required to—adopt the AG's model policies. 5 M.R.S. § 200 (3)(B)-(C).

C. Limiting immigration enforcement at libraries.

The ICE Out of Schools and Healthcare law limits immigration authorities' ability to access libraries in several important ways. It imposes mandatory requirements on state libraries, like the Maine State Library, Maine's Law and Legislative Reference Library, and the libraries of the University of Maine System, the Maine Community College System, and the Maine Maritime Academy, 27 M.R.S. § 109-A(1)(E), and requires the creation of model policies that other public libraries[25] in Maine can adopt.

First, the law prevents anyone acting on behalf of a state library from consenting to law enforcement entering nonpublic areas of the state library for immigration enforcement purposes. 27 M.R.S. § 109-A(2). The law further prevents anyone acting on behalf of a state library from consenting to law enforcement accessing library patron records for immigration enforcement purposes. 27 M.R.S. § 109-A(3).

Second, the law requires the Attorney General's Office to promulgate model policies and guidance limiting immigration authorities' ability to access libraries' nonpublic areas and protected library patron records to the fullest extent possible, in order to "ensur[e] that facilities providing services to members of the public remain safe and accessible to all state residents regardless of immigration status." 5 M.R.S. § 200-O (1). The Attorney General's Office must publish its model policies limiting immigration enforcement in libraries by September 27, 2026 (60 days after the Act's effective date). 5 M.R.S. §200-O(2)(A). State libraries are required to adopt the AG's

[25] Maine law defines "public library" to mean "a library freely open to all persons and receives its financial support from a municipality, private association, corporation or group." 27 M.R.S. § 110(10).

model policies by December 27, 2026 (3 months after they are published by the AG's office). 5 M.R.S. § 200-O(2)(C). All other public libraries may—but are not required to—adopt the AG's model policies. 5 M.R.S. § 200(3)(E).

IV. Understanding and implementing the ICE Out of Our Homes law[26]

The ICE Out of Our Homes law prohibits landlords from disclosing certain information about tenants, including tenants' national origin or immigration status.

The law bars landlords (and anyone acting on their behalf) from disclosing tenants' personal information without their express consent, whenever that disclosure is done with the intent to harass, intimidate, or cause the tenant to vacate the property. 14 M.R.S. § 6025-B(2). "Personal information" is defined broadly to include a tenant's national origin, citizenship, immigration status, or alien registration number, among other information. 14 M.R.S. § 6025-B(1).

The law includes a few limited exceptions to this prohibition on disclosure of tenants' immigration status and other personal information. For example, a landlord may disclose personal information in response to a valid judicial warrant, subpoena, or discovery request, and may disclose that information to state or local law enforcement in exigent circumstances or to prevent a criminal act. 14 M.R.S. § 6025-B(3). A landlord can likewise disclose personal information when reasonably necessary for certain property-related tasks, including sale or refinancing of the property, applying for funds for government affordable housing programs, or responding to requests from code enforcement officers or fire inspectors. 14 M.R.S. § 6025-B(3).

The law imposes clear penalties for violations. If a landlord discloses a tenant's personal information in violation of the law, the tenant can recover the actual damages they suffered or $1,000, whichever is greater, as well as reasonable attorney's fees. 14 M.R.S. § 6025-B(4). The tenant can also obtain a court order to prevent recurrence of the landlord's unlawful conduct. 14 M.R.S. § 6025-B(4).

[26] "An Act to Safeguard Personal Information and Strengthen Tenant Rights in Maine," P.L. 2026, ch. 767, https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0881&item=4&snum=132; *codified at* 5 M.R.S. §§ 4651(2)(C), 6025(3), 6025-B.