



Guidance Summary:
Key Provisions of the Illinois TRUST Act

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Guidance Summary for Local Law Enforcement: **Key Provisions of the Illinois TRUST Act**

In light of recent national events,¹ this summary of key provisions of the Illinois TRUST Act is intended as a refresher for Illinois law enforcement agencies regarding state law restrictions on participating in federal civil immigration enforcement.² It is important to note, however, that although the Illinois TRUST Act prevents the use of state and local resources for civil immigration enforcement purposes, it does not prevent law enforcement officers from taking action to maintain peace and ensure public safety within their jurisdiction.

Local law enforcement³ agencies in Illinois are dedicated to protecting the communities they serve. Promoting public safety requires assistance and cooperation from the community so that law enforcement can gather the information necessary to solve and deter crime. With this goal in mind, Illinois law enforcement agencies are subject to the Illinois TRUST Act,⁴ which helps bolster community trust and cooperation by affirming that law enforcement agencies in Illinois are largely prohibited from participating in immigration enforcement.

Immigration is governed by federal law.⁵ And although some provisions of federal immigration statutes are criminal, deportation and removability are matters of civil law, not criminal law.⁶ Whether an individual is lawfully present in the United States is a question of federal civil immigration law.⁷ The U.S. Supreme Court has held that “it is not a crime for a removable alien to remain present in the United States.”⁸ Thus, unlawful presence alone does not establish probable cause that an individual has committed an offense under Illinois law. The fact that a person might be subject to deportation is not a lawful reason for arrest or detention by local law enforcement.⁹

¹ Press Release, *Attorney General Raoul Issues Statement on California Lawsuit Over Unlawful Federalization of the State’s National Guard* (June 10, 2025).

² See Illinois Attorney General Raoul *Guidance: Illinois Laws Governing Law Enforcement Interactions with Immigrant Communities* (last updated 2025), for a thorough overview of law enforcement’s obligations under the Illinois TRUST Act and other state laws governing interactions with immigrant communities.

³ Throughout this guidance, “local law enforcement” is used to describe state and local law enforcement agencies such as municipal police departments, sheriffs’ offices, Illinois State Police, and other non-federal law enforcement authorities. This includes campus police departments serving public and private higher education institutions.

⁴ 5 ILCS 805/1 et seq.

⁵ *Arizona v. United States*, 567 U.S. 387, 394–95 (2012).

⁶ See *United States v. Valdez-Hurtado*, 638 F. Supp. 3d 879, 885 (N.D. Ill. 2022) (“Lest there be any confusion, Congress has prescribed that some acts, such as unlawful entry and re-entry into the country, are crimes subject to punishment by the criminal justice system, but that enforcement of federal immigration law by removing immigrants from the country is a civil matter, not a criminal one. A removable person’s presence in the United States is not a crime.”) (citations omitted); *Gonzales v. City of Peoria*, 722 F.2d 468, 474–75 (9th Cir. 1983) (discussing the distinction between criminal and civil federal immigration law), *overruled on other grounds by* *Hodgers-Durgin v. de la Vina*, 199 F.3d 1037 (9th Cir. 1999).

⁷ *Gonzales v. City of Peoria*, 722 F.2d at 476.

⁸ *Arizona*, 567 U.S. at 407 (“If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.”).

⁹ *Id.*; see also *Galarza v. Szalczyk*, 745 F.3d 634, 641 (3d Cir. 2014) (“The [Immigration and Nationality Act] does not authorize federal officials to command state or local officials to detain suspected aliens subject to removal.”); *Morales v. Chadbourne*, 793 F.3d 208, 217–18 (1st Cir. 2015) (new seizures as a result of an immigration detainer must be supported by probable cause).

The federal government is responsible for enforcing federal law, and state and local law enforcement are generally not required to perform federal functions, such as immigration enforcement.¹⁰ In fact, any authorization from the federal government for local law enforcement to enforce federal immigration law is effective only if it is accompanied by authority under state law.¹¹ Any requests from federal immigration authorities—such as U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP)—for assistance from local law enforcement to detain an individual or to provide access to individuals held by local authorities must be viewed as requests, not obligations.¹² State law dictates whether local law enforcement can comply with those requests. It is important to note, however, that the TRUST Act does not prohibit any state or local law enforcement official from “otherwise executing that official’s duties in investigating violations of criminal law,” including by cooperating in such criminal investigations with federal law enforcement partners in order to ensure public safety.¹³

In Illinois, local law enforcement generally cannot assist in the enforcement of federal civil immigration law. The Illinois TRUST Act states that a “law enforcement agency or official may not participate, support, or assist in any capacity with an immigration agent’s enforcement operations.”¹⁴ It further specifies that local law enforcement:

- May not transfer any person into an immigration agent’s custody;
- May not give any immigration agent access, including by telephone, to any individual who is in the law enforcement agency’s custody;
- May not permit immigration agents’ use of local law enforcement agency facilities or equipment, including the use of electronic databases not available to the public, for any investigative or immigration enforcement purpose; and
- May not otherwise help federal agents conduct civil immigration enforcement operations.¹⁵

¹⁰ *Printz v. United States*, 521 U.S. 898, 923–24 (1997) (finding that the U.S. Constitution prohibits the federal government from compelling the states to enact or administer a federal regulatory program).

¹¹ *Arizona*, 567 U.S. at 414.

¹² *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1004 (N.D. Ill. 2016); *Galarza*, 745 F.3d at 645; *Ortega v. U.S. Immigration & Customs Enforcement*, 737 F.3d 435, 438 (6th Cir. 2013); *Liranzo v. United States*, 690 F.3d 78, 82 (2d Cir. 2012); *United States v. Uribe-Rios*, 558 F.3d 347, 350 n.1 (4th Cir. 2009); *United States v. Female Juvenile, A.F.S.*, 377 F.3d 27, 35 (1st Cir. 2004); *Giddings v. Chandler*, 979 F.2d 1104, 1105 n.3 (5th Cir. 1992). *Cf. McHenry County v. Kwame Raoul*, 44 F.4th 581, 592 (7th Cir. 2022) (“Congress may have hoped or expected that States would cooperate with any requests from the Attorney General to house detainees in their facilities. But Illinois and the other States are not bound by that hope or expectation.”); *Valdez-Hurtado*, 638 F. Supp. 3d at 885 (ICE detainer is merely a request and does not supply legal basis for U.S. Marshals Service to detain criminal defendant beyond release date specified in Bail Reform Act release order).

¹³ 5 ILCS 805/15(i).

¹⁴ 5 ILCS 805/15(h)(1). In certain states, local law enforcement may enter into a formal working agreement with the Department of Homeland Security known as a Section 287(g) agreement to assist in the “investigation, apprehension, or detention of aliens in the United States.” 8 U.S.C. § 1357(g) (Section 287(g) of the Immigration and Nationality Act). Illinois law, however, prohibits any law enforcement agency or official in Illinois from entering into a Section 287(g) agreement. 5 ILCS 835/5(b).

¹⁵ 5 ILCS 805/15(h)(1)–(4). The TRUST Act does not prevent local law enforcement from taking actions to protect public safety, such as using lawful crowd control tactics or enforcing criminal laws prohibiting violence and property destruction.

The Illinois TRUST Act also generally prohibits local law enforcement from sharing information with federal immigration agents, with limited exceptions.¹⁶ Local law enforcement may provide these types of assistance, which are otherwise generally prohibited under the Illinois TRUST Act, only in two narrow circumstances: when they are presented with a federal criminal warrant; or when they are otherwise required by a specific federal law.¹⁷

The Illinois TRUST Act further states that a “law enforcement agency or law enforcement official shall not stop, arrest, search, detain, or continue to detain a person solely based on an individual’s citizenship or immigration status.”¹⁸ Illinois law permits arrest by local law enforcement only if the officer has a criminal arrest warrant, has reasonable grounds to believe a warrant has been issued, or has reasonable grounds to believe that the individual is committing or has committed a criminal offense for which arrest is permitted.¹⁹ The Illinois TRUST Act also generally prohibits law enforcement from complying with immigration detainers²⁰ and “inquir[ing] about or investigat[ing] the citizenship or immigration status or place of birth of any individual in the agency or official’s custody or who has otherwise been stopped or detained by the agency or official.”²¹

¹⁶ See 5 ILCS 805/15(h)(7) (law enforcement may not “provide to any immigration agent *information not otherwise available to the public* relating to an individual’s release or contact information”) (emphasis added); *id.* § 5 (“This Act shall not be construed to prohibit or restrict any entity from sending to, or receiving from, the United States Department of Homeland Security or other federal, State, or local government entity information regarding the citizenship or immigration status of any individual under Sections 1373 and 1644 of Title 8 of the United States Code.”). The two federal statutes explicitly referenced in 5 ILCS 805/5 have been called into question or ruled unconstitutional by multiple federal courts, including in Illinois. See *City of Chicago v. Sessions*, 321 F. Supp. 3d 855, 872 (N.D. Ill. 2018), *aff’d on other grounds sub nom. City of Chicago v. Barr*, 961 F.3d 882 (7th Cir. 2020); *City & County of San Francisco v. Sessions*, 349 F. Supp. 3d 924, 953 (N.D. Cal. 2018), *aff’d on other grounds sub nom. City & County of San Francisco v. Barr*, 965 F.3d 753 (9th Cir. 2020); *United States v. California*, 921 F.3d 865, 889 (9th Cir. 2019); *New York v. Department of Justice*, 343 F. Supp. 3d 213, 237 (S.D.N.Y. 2018), *rev’d*, 951 F.3d 84 (2d Cir. 2020). Section 15(e) of the TRUST Act also prohibits state and local law enforcement from eliciting citizenship or immigration status information from individuals who are in custody or who are otherwise stopped or detained. 5 ILCS 805/15(e). Nonetheless, nothing in the TRUST Act prohibits a law enforcement officer from voluntarily sharing citizenship or immigration status information, if known. 5 ILCS 805/5 (discussing “information regarding the citizenship or immigration status of any individual under Sections 1373 and 1644 of Title 8 of the United States Code”). In addition, providing public information or public records in response to a federal immigration agent’s request likewise does not generally conflict with the TRUST Act and may be required by other applicable laws such as the Illinois FOIA statute. See, e.g., 5 ILCS 140/2.15 (governing public release of arrest reports and criminal history information under Illinois FOIA).

¹⁷ 5 ILCS 805/15(h).

¹⁸ 5 ILCS 805/15(b).

¹⁹ 725 ILCS 5/107-2.

²⁰ 5 ILCS 805/15(a). In some states, local law enforcement may enter into formal agreements with the federal government to detain people who have been apprehended for violating federal civil immigration law. See 8 U.S.C. § 1103(a)(11)(B). Illinois law, however, also prohibits law enforcement agencies and officials from entering into any “agreement to house or detain individuals for federal civil immigration violations.” 5 ILCS 805/15(g)(1). See *McHenry County v. Raoul*, 574 F. Supp. 3d 571, 581 (N.D. Ill. 2021) (“[T]he federal government can only house [ICE] detainees in the facilities of a state or a state’s political subdivision via a cooperative agreement The State of Illinois, by legislative act, has decided that its political subdivisions may not enter or remain in such agreements.”), *aff’d sub nom. McHenry County v. Kwame Raoul*, 44 F.4th 581 (7th Cir. 2022).

²¹ 5 ILCS 805/15(e).