AN ACT to amend the executive law and the judiciary law, in relation to access to services, law enforcement and counsel in certain immigration related matters; and to amend the judiciary law, in relation to compensation of legal counsel for certain matters.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

section 1. The executive law is amended by adding a new article 15-AA to read as follows:

**ARTICLE 15-AA**

ACCESS TO SERVICES AND LAW ENFORCEMENT IN CERTAIN IMMIGRATION RELATED MATTERS

**Section 319. Definitions.** For purposes of this article, the following terms and phrases shall be defined as follows:

1. "Agency" shall mean any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof.

EXPLANATION—Matter in **italics** (underscored) is new; matter in brackets [−] is old law to be omitted.
2. "Agent" shall mean any officer, official, employee or volunteer working for, employed by or providing assistance to an agency.

3. "Civil immigration warrant" shall mean an administrative request for detention issued pursuant to 8 C.F.R. § 287.7 or any similar request issued by an agency or agent of the United States for the detention of a person suspected of violating the immigration law of the United States.

4. "Federal immigration authority" shall mean any officer, employee or person otherwise paid by or acting as an agent of the United States immigration and customs enforcement or any division thereof or any other officer, employee or person otherwise paid by or acting as an agent of the United States department of homeland security or any other federal entity who is charged with enforcement of the provisions of any federal immigration law.

5. "Health care provider" shall mean a health care provider as defined in subdivision six of section two hundred thirty-eight of the public health law.

6. "Immigration status" or "immigration status information" shall mean immigration status, lawful or unlawful, of an individual under the laws and regulations of the United States of America.

7. "Judicial warrant" shall mean a warrant based on probable cause and issued by a judge serving pursuant to article three of the United States constitution or a federal magistrate judge serving by appointment pursuant to 28 U.S.C. § 631, that authorizes a federal immigration authority to take into custody a person who is the subject of such warrant.

8. "Law enforcement agency" shall mean any agency that is empowered by law to conduct an investigation or make an arrest for a crime or offense, or any agency that is authorized by law to prosecute or participate in the prosecution of a crime or offense, or any agency authorized by law to jail, detain or imprison a person under color of law, or any agency employing a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law or peace officer, as defined in subdivision thirty-three of section 1.20 of the criminal procedure law.

9. "Terrorist screening database" shall mean the United States terrorist watch list database lawfully maintained by the terrorist screening center of the government of the United States.

§ 319-a. Access to services, assistance and eligible benefits. 1. No state or local agency, or agent thereof, or health care provider may make any inquiry or record any information concerning the immigration status of a person who is seeking assistance, services or benefits for himself, herself, or a family or household member as defined in subdivision two of section four hundred fifty-nine-a of the social services law or for any other potential beneficiary of such assistance, services or benefits.

2. No state or local law enforcement agency, or agent thereof, shall make any inquiry or record any information concerning the immigration status of a person who contacts, approaches or asks for or is in need of the assistance of a law enforcement agency.

3. Notwithstanding the provisions of subdivisions one and two of this section, limited inquiry and recording of such information concerning the relevant person may be made when, as documented with specificity in such agency, employee or agent's or health care provider's case record of the matter, such person's immigration status is:

   (a) directly relevant as a lawful criterion for such person's eligibility for the specific mode of assistance, services or benefits sought;
(b) directly and highly relevant to the subject matter of a specific, ongoing law enforcement investigation engaged in by such state or local law enforcement agency or agent thereof;
(c) specifically required to be obtained by such agency or agent thereof, or health care provider, by state or federal law;
(d) requested by a health care provider for the benefit of the person, including but not limited to the referral of such person to benefits and services they may be eligible for, provided that the immigration status of such person shall not be documented in any medical record and shall not be disclosed for any purpose; or
(e) requested for the benefit of the person by the office for new Americans established pursuant to section ninety-four-b of this chapter, the bureau of refugee and immigration assistance within the office of temporary and disability assistance, or any other similar agency that is assisting such person in matters related to such person's immigration status, provided that the status of such person shall not be disclosed for any purpose.

4. In addition to any other right to the assistance of interpretation or translation services, any foreign-born person, or person not proficient in the English language, to whom inquiry is made pursuant to this section shall be entitled to the assistance of a neutral and qualified interpreter or translator, as the case may be, with respect to such inquiry, provided at no cost or expense to such person.

§ 319-b. Federal agencies to investigate and enforce federal immigration laws. 1. No state or local law enforcement agency, or agent thereof, shall stop, question, interrogate, investigate or arrest an individual for any of the following:
(a) suspected United States immigration or citizenship status violation;
(b) suspected civil violation of the United States immigration law or authorized regulations; or
(c) a civil immigration warrant.
2. No state or local law enforcement agency, nor agent thereof, shall make any inquiry or record any information concerning the immigration status of an individual who contacts, approaches or asks for or is in need of the assistance of a law enforcement agency, except to the extent necessary and authorized pursuant to this article.
3. No state or local law enforcement agency, or agent thereof, shall perform the function of or be cross-designated as a federal immigration officer or otherwise engage or significantly assist in the enforcement of federal immigration law, pursuant to 8 U.S.C. § 1357 (g) or any other federal law. Nothing in this subdivision shall prevent detention of a person in accordance with and to the extent permitted by section three hundred nineteen-e of this article.
4. In addition to any other right to the assistance of interpretation or translation services, any foreign-born person, or person not proficient in the English language, to whom inquiry is made pursuant to subdivision one or two of this section shall be entitled to the assistance of a neutral and qualified interpreter or translator, as the case may be, with respect to such inquiry, provided at no cost or expense to such person.

§ 319-c. Confidentiality of information. Unless disclosure is required by a lawful court order, no state or local agency, or employee or agent thereof, or health care provider or state or local law enforcement agency, or agent thereof, shall provide to a federal immigration authority any information collected or obtained with respect to a person in
accordance with this article or otherwise, including but not limited to
home, work or school address, except that:

1. immigration status information shall be provided if requested by
such federal immigration authority and required to be provided to it in
accordance with 8 U.S.C. 1373 or another controlling federal law;

2. the division of criminal justice services or a qualified agency, as
defined in subdivision nine of section eight hundred thirty-five of this
chapter, may provide criminal history information, as defined in para-
graph (c) of subdivision one of section eight hundred forty-five-b of
this chapter, when lawfully requested about a specific person and such
disclosure is permitted by state law;

3. except as provided in subdivision four of this section, a health
care provider may provide to a federal immigration authority medical
record information, not including immigration status information, with
the consent of the subject of such medical record information, provided
in accordance with the public health law; and

4. a state or local agency, or employee or agent thereof, or health
care provider or state or local law enforcement agency, or agent there-
of, may provide such information, other than the information described
in subdivision one of this section, concerning an individual, including
but not limited to physical or psychological disability information,
status as a victim of or witness to suspected criminal activity, home
address, work address, and/or status as an applicant or recipient of
public assistance, only with informed written consent of the individual
and, if represented by counsel, written authorization by such attorney.

§ 319-d. Custody of certain persons: bail and related pre-trial
issues. 1. Except as provided in section three hundred nineteen-e of
this article, no state or local law enforcement agency, or agent there-
of, or court shall delay or deny release of a person on recognizance or
bail, pursuant to article five hundred thirty of the criminal procedure
law or otherwise, on the basis of the person's immigration status, a
civil immigration warrant, or a federal immigration authority's request
for notification about, transfer of, detention of, or interview or
interrogation of such person.

2. Upon receipt from a federal immigration authority of a civil immi-
gration warrant, or a request for transfer, notification, interview,
interrogation or other request, a state or local law enforcement agency,
or agent thereof, shall promptly notify the person who is the subject of
such warrant or request, provide a copy of such warrant or request to
such person, as the case may be, and inform such person of the right to
counsel provisions of section three hundred nineteen-g of this article,
and, inform such person, reasonably in advance of responding to the
federal immigration authority, as to whether or not such agency intends
to comply with such warrant or request.

3. A person in the custody of a state or local law enforcement agency,
or agent thereof, shall be subject to booking, processing, right to
counsel, release and transfer procedures, policies and practices of that
agency that are at least as protective of individual rights as other
persons in such agency's custody, regardless of the person's actual or
suspected immigration status.

§ 319-e. Civil immigration warrants. 1. A state or local law enforce-
ment agency, or agent thereof, lawfully holding a person in its custody,
may thereafter detain such person solely on the basis of a civil immi-
gration warrant, for a single period not exceeding forty-eight hours
excluding weekends and holidays, beyond the time when such person would
otherwise have been released from such agency's custody, only if:
(a) an authorized federal immigration agency presents such state or local law enforcement agency with a judicial warrant for the detention of the person who is the subject of such civil immigration warrant at the time such civil immigration warrant is presented; or

(b) notice has been received from a court or any other governmental entity, documenting that there is probable cause to believe the person illegally reentered the United States after a previous removal or return as defined in 8 U.S.C. § 1326, and the person stands convicted of a violent felony offense as defined in subdivision one of section 70.02 of the penal law, or a class A felony offense defined in the penal law, or an offense in any other jurisdiction that has the same essential elements of any such violent felony or class A offense; or

(c) such person is identified by such state or local law enforcement agency as a likely match with a person listed in the terrorist screening database.

2. Except to the extent that disclosure is required by federal law, no state or local law enforcement agency, or agent thereof, shall provide to a federal immigration authority, or another agency, entity or person on behalf of a federal immigration authority, any information obtained concerning a person who is in or formerly was in the custody of such state or local law enforcement agency, or agent thereof, including but not limited to the person’s release date, court appearance date or dates, home, work or school address.

3. Nothing in this section shall be construed to confer any authority on an entity to detain a person based on a civil immigration warrant beyond the authority, if any, to do so that existed prior to the enactment of this section.

4. This section shall supersede any conflicting policy, rule, procedure and practice within the state of New York. Nothing in this section shall be construed to prohibit any entity from cooperating with a federal immigration authority to the extent required by federal law. Nothing in this section shall be interpreted or applied so as to create any power, duty or obligation in conflict with any federal law.

§ 319-f. Limitation on use of certain facilities. 1. No state or local law enforcement agency, or agent thereof, shall provide a federal immigration agency, or agent thereof, with access to an individual in such law enforcement agency’s custody or control.

2. Notwithstanding the provisions of subdivision one of this section, a person in the custody of a state or local law enforcement agency may request to be interviewed by a federal law enforcement agency or an agent thereof only with knowing and voluntary written consent of the individual and, if represented by counsel, written authorization by such counsel, provided that if such individual is not represented and is entitled to counsel assigned pursuant to section three hundred nineteen-g of this article or article eighteen-B of the county law, he or she shall be notified of such right and provided a reasonable opportunity to obtain such counsel before any such interview.

3. In addition to any other right to the assistance of interpretation or translation services, any foreign-born person, or person not proficient in the English language, to whom inquiry is made pursuant to this section shall be entitled to the assistance of a neutral and qualified interpreter or translator, as the case may be, with respect to such inquiry, provided at no cost or expense to such person.

4. Except as provided in subdivision two of this section, federal immigration authorities shall not be permitted to use or maintain, for the purpose of interviewing any person or witness or investigating or
adjudicating any alleged violation of federal immigration law, any
office or quarters in any building or facility or any land owned, leased
or operated by a state or local law enforcement agency.

§ 319-g. Legal representation. 1. A person unable to afford counsel
against whom there is probable cause to commence a removal proceeding or
against whom such a proceeding has been commenced, shall be entitled to
representation by assigned counsel and related assistance, pursuant to
subdivision one of section thirty-five of the judiciary law, when the
person:
(a) was present in this state when questioned, taken into custody,
charged, summoned or presented with the allegations of the removal
proceedings, and the person resides or is detained in either this state
or an adjoining state; or
(b) resided in this state when questioned, taken into custody,
charged, summoned or presented with the allegations of the removal
proceedings, and the person continues to reside in this state or an
adjoining state, or if detained, continues to be detained in either this
state or an adjoining state.

2. Representation and related assistance provided in accordance with
subdivision one of this section shall be a state charge, pursuant to
subdivision one of section thirty-five of the judiciary law.

§ 319-h. Prohibition on certain databases and registries. No state or
local law enforcement agency may use any funds, facilities, property,
equipment or personnel of such agency to investigate, enforce or provide
assistance in the investigation or enforcement of any federal program
requiring registration of individuals, or maintaining a database of
individuals, on the basis of race, color, creed, gender, sexual orien-
tation, religion, or national or ethnic origin.

§ 2. The opening paragraph of paragraph a of subdivision 1 of section
35 of the judiciary law is designated as subparagraph (i) and a new
subparagraph (ii) is added to read as follows:
(ii) Persons providing assigned counsel and related assistance in
immigration-related matters pursuant to section three hundred nineteen-g
of the executive law shall be compensated in accordance with this
section. In any case where a person entitled to assigned representation
pursuant to section three hundred nineteen-g of the executive law
petitions the criminal court of the city of New York, the county court
or district court, with jurisdiction where the person is to be ques-
tioned or detained, or is detained, or was charged in such immigration-
related matter, or most recently resided, the court shall assign counsel
in accordance with this section.

§ 3. Severability. If any clause, sentence, subdivision, paragraph,
section or other part of this act shall be adjudged by any court of
competent jurisdiction to be invalid, such judgment shall not affect,
impair or invalidate the remainder thereof, but shall be confined in its
operation to the clause, sentence, subdivision, paragraph, section or
part thereof directly involved in the controversy in which such judgment
shall have been rendered.

§ 4. This act shall take effect immediately.