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3506--B

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IN ASSEMBLY

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Introduced by M. of A. REYES, R. CARROLL, ROSENTHAL, WEPRIN, SIMON, FORREST, CRUZ, ANDERSON, CLARK, DINOWITZ, MITAYNES, OTIS, KELLES, GALLAGHER, GONZALEZ-ROJAS, SEAWRIGHT, HEVESI, JACOBSON, BURDICK, LAVINE, JACKSON, MEEKS, VANEL, WALKER, RAMOS, GLICK, DAVILA, BRONSON, TAPIA, PAULIN, LUNSFORD, DE LOS SANTOS, CUNNINGHAM, KIM, RIVERA, SHRESTHA, HYNDMAN, RAGA, LEVENBERG, SEPTIMO, ALVAREZ, SHIMSKY, BENEDETTO, ZACCARO, GIBBS, BICHOTTE HERMELYN, LEE, CHANDLER-WATERMAN, ROMERO, LASHER, VALDEZ, TAYLOR, BORES, TORRES, SIMONE, BURROUGHS, STIRPE, SOLAGES, DAIS, LUPARDO, SCHIAVONI, WRIGHT, McDONALD, P. CARROLL, BARRETT, MAGNARELLI, HOOKS, RAJKUMAR, DILAN, LUCAS, HUNTER, CASHMAN, MORENO, ZINERMAN, POWERS -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the executive law, the general municipal law, the education law, the correction law and the public officers law, in relation to prohibiting and regulating the discovery and disclosure of immigration status; and to repeal certain provisions of the correction law relating thereto

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

1 Section 1. Section 1.20 of the criminal procedure law is amended by
2 adding five new subdivisions 46, 47, 48, 49 and 50 to read as follows:

3 46. "Immigration authorities" means any officer, employee, or govern-
4 ment employee who is responsible for enforcement of the federal Immi-
5 gration and Nationality Act, including any officer or agent of United
6 States Immigration and Customs Enforcement or United States Customs and
7 Border Protection.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 47. "Immigration enforcement" means the enforcement of any civil
2 provision of the federal Immigration and Nationality Act or any
3 provision of law that penalizes a person's presence in, entry into, or
4 reentry into the United States.

5 48. "Immigration law" means any civil provision of the federal Immi-
6 gration and Nationality Act and any provision of law that penalizes a
7 person's presence in, entry into, or reentry into the United States.

8 49. "Immigration detainer" means any document, form, or other communi-
9 cation requesting or directing that a police officer, peace officer, or
10 government entity detain or maintain custody of an individual, for any
11 period of time, for pickup by or transfer to immigration authorities.

12 50. "Civil immigration warrant" means any warrant for a violation of
13 civil immigration law that is not issued by a judge appointed pursuant
14 to Article III of the United States constitution or a federal magistrate
15 judge appointed pursuant to 28 USC § 631, and includes any warrant
16 entered into the national crime information center database.

17 § 2. The criminal procedure law is amended by adding a new article 145
18 to read as follows:

19 ARTICLE 145

20 PROCEDURES FOR POLICE OFFICERS, PEACE OFFICERS, AND SCHOOL RESOURCE
21 OFFICERS PERTAINING TO IMMIGRATION ENFORCEMENT

22 Section 145.05 Duties of police officers, peace officers, and school
23 resource officers; immigration.

24 145.10 Direction by immigration authorities.

25 145.15 Immigration detainer; questioning, investigation or
26 interrogation prohibited.

27 145.20 Inquiry into and collection of information about citi-
28 zenship or immigration status prohibited.

29 145.25 Notification of immigration authorities prohibited.

30 145.30 Transfer of custody to immigration authorities.

31 145.35 Entry of immigration status into a database.

32 145.40 Immigration authorities as interpreters prohibited.

33 145.45 Written consent for interview.

34 145.50 Receipt of information regarding citizenship.

35 145.55 Compliance with court orders and judicial warrants.

36 145.60 Application of laws.

37 § 145.05 Duties of police officers, peace officers, and school resource
38 officers; immigration.

39 The duties and authority of police officers, peace officers, and
40 school resource officers shall not include authority to engage in immi-
41 gration enforcement. Police officers, peace officers, and school
42 resource officers shall not use public resources for immigration
43 enforcement.

44 § 145.10 Direction by immigration authorities.

45 No police officer, peace officer, or school resource officer shall be
46 subject to the direction or supervision of immigration authorities. No
47 police officer, peace officer, or school resource officer shall partic-
48 ipate in or be subject to any agreement for the purpose of immigration
49 enforcement.

50 § 145.15 Immigration detainer; questioning, investigation or interro-
51 gation prohibited.

52 No police officer, peace officer, or school resource officer shall
53 question, investigate, or interrogate an individual solely on the basis
54 of an immigration detainer, a civil immigration warrant, or an actual or
55 suspected violation of immigration law.

§ 145.20 Inquiry into and collection of information about citizenship or immigration status prohibited.

1. No police officer, peace officer, or school resource officer shall inquire about a person's citizenship, immigration status, nationality, or country of origin, unless required by law or necessary to administer a public program or benefit sought by that person.

2. No police officer, peace officer, or school resource officer shall collect information regarding citizenship, immigration status, nationality, or country of origin, unless required by law or necessary to administer a public program or benefit sought by that person.

§ 145.25 Notification of immigration authorities prohibited.

No police officer, peace officer, or school resource officer shall notify or otherwise communicate with immigration authorities regarding: (i) the date, time, or location that an individual will be released from custody; (ii) the time, date, or location of an individual's court appearance; or (iii) any other information available to police officers, peace officers, or school resource officers through or as a result of such employment as a police officer, peace officer, or school resource officer.

§ 145.30 Transfer of custody to immigration authorities.

No police officer, peace officer, or school resource officer shall transfer or facilitate the transfer of individuals in their custody to the custody of immigration authorities absent a valid court order or judicial warrant issued by an independent judge appointed pursuant to Article III of the United States constitution or federal magistrate judge appointed pursuant to 28 USC § 631 commanding the arrest of such individual.

§ 145.35 Entry of immigration status into a database.

No police officer, peace officer, or school resource officer shall enter a person's immigration status into any database maintained by any government entity unless required or necessary to administer a public program or benefit sought by such person.

§ 145.40 Immigration authorities as interpreters prohibited.

No police officer, peace officer, or school resource officer shall use immigration authorities as interpreters for law enforcement matters relating to individuals being interviewed, interrogated, investigated, or taken into custody.

§ 145.45 Written consent for interview.

1. In any instance in which immigration authorities are permitted access to an individual in the custody of a police officer, peace officer, or school resource officer for the purpose of being interviewed, the officer shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that they may decline to be interviewed or may choose to be interviewed with their attorney present. The written consent form shall be provided in English, Spanish, and the five most widely spoken languages in the county where the officer's agency or department is located.

2. After providing an individual in custody with a written consent form pursuant to subdivision one of this section, an officer shall keep a written record of whether the individual declined an interview, consented to an interview, or asked for an attorney to be present at the interview, and whether an interview occurred. The office or agency employing such officer shall maintain all such written records and shall compile an annual summary identifying the number of requests for interviews received and whether each individual declined the interview,

1 consented to the interview, or asked for an attorney to be present at
2 the interview, and how many interviews occurred. Such summary shall not
3 include the personally identifiable information of any individual in
4 custody, and shall be a public record.

5 § 145.50 Receipt of information regarding citizenship.

6 The provisions of this article shall not prohibit police officers,
7 peace officers, or school resource officers from sending or receiving
8 information regarding an individual's citizenship or immigration status
9 to or from any local, state, or federal agency.

10 § 145.55 Compliance with court orders and judicial warrants.

11 The provisions of this article shall not prohibit officers from
12 complying with valid court orders or judicial warrants issued by an
13 independent judge appointed pursuant to Article III of the United States
14 constitution or federal magistrate judge appointed pursuant to 28 USC §
15 631.

16 § 145.60 Application of laws.

17 The provisions of this article shall apply notwithstanding any other
18 provisions of state or local law and shall not be construed to in any
19 way expand the authority of state and local law enforcement officers to
20 participate in immigration enforcement.

21 § 3. The executive law is amended by adding a new section 256-b to
22 read as follows:

23 § 256-b. Duties of local probation departments regarding immigration
24 enforcement. 1. For the purposes of this section, the terms "immi-
25 gration authorities", "immigration enforcement", "immigration law",
26 "immigration detainer" and "civil immigration warrant" shall have the
27 same meaning as defined in section 1.20 of the criminal procedure law.

28 2. No probation agency or department, nor any employee thereof, shall
29 inquire about a person's citizenship, immigration status, nationality,
30 or country of origin, unless required by law or necessary to administer
31 a public program or benefit sought by such person.

32 3. No probation agency or department, nor any employee thereof, shall
33 communicate with immigration authorities regarding a person presently or
34 formerly under the supervision of such agency or department or disclose
35 to immigration authorities information gained in the course of employ-
36 ment or available as a result of employment with such agency or depart-
37 ment.

38 4. No probation agency or department, nor any employee thereof, shall
39 collect information about a person's citizenship, immigration status,
40 nationality, or country of origin, unless required by law or necessary
41 to administer a public program or benefit sought by such person.

42 5. No probation agency or department, nor any employee thereof, shall
43 question, investigate, or interrogate an individual solely on the basis
44 of an immigration detainer, a civil immigration warrant, or an actual or
45 suspected violation of immigration law.

46 6. No probation agency or department, nor any employee thereof, shall
47 permit non-local civil law enforcement agencies to access non-public
48 areas of property or facilities under the control of such agency or
49 department unless presented with a judicial warrant signed by a judge or
50 independent magistrate authorizing a search or seeking the arrest of an
51 individual present at the time the judicial warrant is presented.

52 7. In any instance in which immigration authorities are permitted
53 access to an individual under the supervision of a probation agency or
54 department for the purpose of being interviewed, the probation agency or
55 department shall provide the individual with a written consent form that
56 explains the purpose of the interview, that the interview is voluntary,

1 and that they may decline to be interviewed or may choose to be inter-
2 viewed with their attorney present. The written consent form shall be
3 provided in English, Spanish, and the five most widely spoken languages
4 in the county where the officer's agency or department is located.

5 8. No probation agency or department, nor any employee thereof, shall
6 enter a person's immigration status into any database maintained by any
7 government entity unless required or necessary to administer a public
8 program or benefit sought by such person.

9 9. No probation agency or department, nor any employee thereof, shall
10 investigate a person's immigration status or immigration history.

11 10. No probation agency or department, nor any employee thereof, shall
12 include a person's immigration status or immigration history in court-
13 ordered reports.

14 11. No probation agency or department, nor any employee thereof, shall
15 use immigration authorities as interpreters for law enforcement matters
16 relating to individuals under the supervision of such agency or depart-
17 ment.

18 12. The provisions of this section shall not prohibit employees of
19 probation agencies or departments from sending or receiving information
20 regarding an individual's citizenship or immigration status to or from
21 any local, state, or federal agency.

22 13. The provisions of this section shall not prohibit probation
23 departments or their employees from complying with valid court orders or
24 judicial warrants issued by an independent judge appointed pursuant to
25 Article III of the United States constitution or federal magistrate
26 judge appointed pursuant to 28 USC § 631.

27 14. The provisions of this section shall apply notwithstanding any
28 other provisions of state or local law and shall not be construed to in
29 any way expand the authority of state and local law enforcement officers
30 to participate in immigration enforcement.

31 § 4. The executive law is amended by adding a new article 15-AA to
32 read as follows:

33 ARTICLE 15-AA

34 RESTRICTIONS ON IMMIGRATION ENFORCEMENT BY STATE EMPLOYEES

35 Section 319. Definitions.

36 319-a. Restrictions on immigration enforcement by state employ- 37 ees.

38 § 319. Definitions. As used in this article, the following terms shall
39 have the following meanings:

40 1. "State entity" means: any agency under the executive authority of
41 the governor; any agency for which the governor appoints the commission-
42 er or highest ranking employee; any public benefit corporation, public
43 authority, board, or commission for which the governor appoints the
44 chief executive or a majority of the board members; any division,
45 department, or office regulated under this chapter; the department of
46 education and any public school district or charter school, division,
47 office, or institution under the supervision of the department of educa-
48 tion; all offices defined in article one of the public officers law; the
49 department of civil service or any of its civil divisions as defined in
50 article one of the civil service law; and any contractor while perform-
51 ing services on behalf of the state.

52 2. "State employee" means any individual employed by: any agency under
53 the executive authority of the governor; any agency for which the gover-
54 nor appoints the commissioner or highest ranking employee; any public
55 benefit corporation, public authority, board, or commission for which
56 the governor appoints the chief executive or a majority of the board

1 members; any division, department, or office regulated under this chap-
2 ter; the department of education and any public school district or char-
3 ter school, division, office, or institution under the supervision of
4 the department of education; all offices defined in article one of the
5 public officers law; the department of civil service or any of its civil
6 divisions as defined in article one of the civil service law; or any
7 contractor while performing services on behalf of the state.

8 3. For the purposes of this section, the terms "immigration authori-
9 ties", "immigration enforcement", "immigration law", "immigration
10 detainer" and "civil immigration warrant" shall have the same meaning as
11 defined in section 1.20 of the criminal procedure law.

12 § 319-a. Restrictions on immigration enforcement by state employees.
13 1. No state employee shall use state resources, including but not limit-
14 ed to time spent while on duty or any state property, for immigration
15 enforcement purposes.

16 2. No state entity or state employee shall disclose to immigration
17 authorities an individual's personally identifiable information, includ-
18 ing, but not limited to, a person's name, social security number, phys-
19 ical description, home address, telephone number, financial information,
20 medical information, place of employment or education.

21 3. No state entity or state employee shall inquire about a person's
22 citizenship, immigration status, nationality, or country of origin,
23 unless required by law or necessary to administer a public program or
24 benefit sought by that person.

25 4. No state entity or state employee shall collect information about a
26 person's citizenship, immigration status, nationality, or country of
27 origin, unless required by law or necessary to administer a public
28 program or benefit sought by such person.

29 5. No state entity or state employee shall question, investigate, or
30 interrogate an individual solely on the basis of an immigration detain-
31 er, a civil immigration warrant, or an actual or suspected violation of
32 immigration law.

33 6. No state entity or state employee shall permit non-local civil law
34 enforcement agencies to access non-public areas of property or facili-
35 ties owned by or under the control of the state unless presented with a
36 judicial warrant signed by a judge or independent magistrate authorizing
37 a search or seeking the arrest of an individual present at the time the
38 judicial warrant is presented.

39 7. No state entity or state employee shall enter a person's immi-
40 gration status into any database maintained by any state entity unless
41 required or necessary to administer a public program or benefit sought
42 by that person.

43 8. No state entity or state employee shall use immigration authorities
44 as interpreters for law enforcement matters relating to individuals such
45 entities or employees interact with as part of their employment duties.

46 9. All requests for assistance made by immigration authorities to
47 state entities or state employees acting in the course of their duties
48 and all other communications between state employees and immigration
49 authorities shall be recorded. Each state entity whose employees are
50 subject to this section shall issue an annual report listing the number
51 of such requests or communications and stating the content and outcome
52 of each request or communication, which shall be promptly delivered to
53 the office of the attorney general and which shall be a public record.

54 10. This section shall not prohibit state employees from sending or
55 receiving information regarding an individual's citizenship or immi-
56 gration status to or from any local, state, or federal agency.

11. The provisions of this article shall not prohibit state employees from complying with valid court orders or judicial warrants issued by an independent judge appointed pursuant to Article III of the United States constitution or federal magistrate judge appointed pursuant to 28 USC § 631.

12. The provisions of this article shall apply notwithstanding any other provisions of state or local law and shall not be construed to in any way expand the authority of state employees to participate in immigration enforcement.

§ 5. The general municipal law is amended by adding a new article 19-D to read as follows:

ARTICLE 19-D

DUTIES OF MUNICIPAL CORPORATIONS AND THEIR EMPLOYEES PERTAINING TO IMMIGRATION ENFORCEMENT

Section 996. Restriction on use of local resources for immigration enforcement.

§ 996. Restriction on use of local resources for immigration enforcement. (a) For the purposes of this section, the terms "immigration authorities", "immigration enforcement", "immigration law", "immigration detainer" and "civil immigration warrant" shall have the same meaning as defined in section 1.20 of the criminal procedure law.

(b) No resources of any municipal corporation shall be utilized for immigration enforcement. For the purposes of this subdivision, resources of a municipal corporation shall include, but not be limited to, time spent by the municipal corporation's employees, officers, contractors, or subcontractors while on duty and the use of any municipal corporation's property.

(c) No municipal corporation, nor any employee thereof, shall disclose to immigration authorities an individual's personally identifiable information, including but not limited to such person's name, social security number, physical description, any associated addresses, telephone number, financial information, medical information, or place of employment or education.

(d) No municipal corporation, nor any employee thereof, shall question, investigate, or interrogate an individual on the basis of an immigration detainer, a civil immigration warrant, or an actual or suspected violation of immigration law.

(e) No municipal corporation, nor any employee thereof, shall inquire about a person's citizenship, immigration status, nationality, or country of origin, unless required by law or necessary to administer a public program or benefit sought by such person.

(f) No municipal corporation nor any employee thereof, shall collect information about a person's citizenship, immigration status, nationality, or country of origin, unless required by law or necessary to administer a public program or benefit sought by such person.

(g) No municipal corporation, nor any employee thereof, shall enter a person's immigration status into any database maintained by any municipal corporation unless required or necessary to administer a public program or benefit sought by such person.

(h) No municipal corporation, nor any employee thereof, shall permit non-local civil law enforcement agencies to access non-public areas of property or facilities under the control of such municipal corporation unless presented with a judicial warrant signed by a judge or independent magistrate authorizing a search or seeking the arrest of an individual present at the time the judicial warrant is presented.

1 (i) No municipal corporation, nor any employee thereof, shall use
2 immigration authorities as interpreters for law enforcement matters
3 relating to individuals such corporation or employees interact with as
4 part of their employment duties.

5 (j) All requests for assistance made by immigration authorities to law
6 enforcement agencies within a municipal corporation and all other commu-
7 nications between law enforcement officers within a municipal corpo-
8 ration and immigration authorities shall be recorded. Each municipal
9 corporation shall issue an annual report listing the number of such
10 requests or communications and stating the content and outcome of each
11 request or communication, which shall be promptly delivered to the
12 office of the attorney general and which shall be a public record.

13 (k) This section shall not prohibit municipal employees from sending
14 or receiving information regarding an individual's citizenship or immi-
15 gration status to or from any local, state, or federal agency.

16 (l) The provisions of this article shall not prohibit municipal corpo-
17 rations or their employees from complying with valid court orders or
18 judicial warrants issued by an independent judge appointed pursuant to
19 Article III of the United States constitution or federal magistrate
20 judge appointed pursuant to 28 USC § 631, or from complying with valid
21 writs of habeas corpus ad prosequendum or habeas corpus ad testificandum
22 issued by a state court with the authority to do so pursuant to sections
23 580.30 and 650.30 of the criminal procedure law upon application by a
24 district attorney.

25 (m) The provisions of this article shall apply notwithstanding any
26 other provisions of state or local law and shall not be construed to in
27 any way expand the authority of state and local employees to participate
28 in immigration enforcement.

29 § 6. The education law is amended by adding a new article 25 to read
30 as follows:

31 ARTICLE 25

32 DUTIES OF EDUCATIONAL AGENCIES AND THEIR EMPLOYEES AND 33 CONTRACTORS PERTAINING TO IMMIGRATION ENFORCEMENT

34 Section 1300. Definitions.

35 1301. Restriction on collection and disclosure of student data.

36 1302. Duties of educational agencies and their employees
37 pertaining to immigration enforcement.

38 § 1300. Definitions. As used in this article the following terms shall
39 have the following meanings:

40 1. "Educational agency" shall have the same definition as in section
41 two-d of this title and shall also include charter schools subject to
42 the provisions of article fifty-six of this chapter.

43 2. "School" shall have the same definition as in section two-d of this
44 title and shall also include charter schools subject to the provisions
45 of article fifty-six of this chapter.

46 3. "Higher education agency" shall mean any college, university, or
47 postsecondary educational institution within the state university of New
48 York, city university of New York, and its affiliate senior and communi-
49 ty colleges, or other institutions receiving state financial assistance
50 or with tuition assistance program eligible students.

51 4. "School employee" means any individual employed by an educational
52 agency.

53 5. "School safety personnel" means any law enforcement officer or
54 public or private security personnel, including school resource offi-
55 cers, employed, contracted, or otherwise retained by an educational
56 agency.

6. "Third-party contractor" shall have the same definition as in section two-d of this title.

7. "Directory information", as applied to student data, means directory information as defined in section 99.3 of title thirty-four of the code of federal regulations implementing the family educational rights and privacy act, section twelve hundred thirty-two-g of title twenty of the United States code.

8. "Personally identifiable information". as applied to student data, shall have the same definition as in section two-d of this title.

9. "School property" shall mean school property as defined in section twenty-eight hundred one of this chapter.

10. "Campus property" shall mean all buildings, structures, facilities, and grounds owned, leased, or operated by a higher education agency institution, including but not limited to classrooms, administrative offices, libraries, laboratories, student centers, athletic facilities, parking areas, and any dormitory, residence hall, apartment, or other student housing facility owned, leased, or operated by the institution, whether located on or off campus and accessible only by students, faculty, staff, and personnel employed by the higher education agency.

11. For the purposes of this section, the terms "immigration authorities" or "immigration enforcement" shall have the same meaning as defined in section 1.20 of the criminal procedure law.

§ 1301. Restriction on collection and disclosure of student data. 1.

(a) No educational agency, higher education agency, school employee, school safety personnel, or third-party contractor shall collect information about a person's citizenship, immigration status, nationality, or country of origin, unless required by law or necessary to administer a public program or benefit sought by such person.

(b) Within one hundred eighty days of the effective date of this section, all educational agencies shall review their directory information policies to ensure that they do not include information that may inadvertently disclose a student or parent's immigration status, including place of birth, nationality, or passport information, and make any necessary changes to comply with the provisions of this subdivision.

(c) Within one hundred eighty days of the effective date of this section, all educational agencies shall review their current data collection practices to determine whether any information collected by the district could unnecessarily disclose a student or parent's immigration status and whether collection of the information is required.

2. (a) No educational agency, higher education agency, school employee, school safety personnel, or third-party contractor shall disclose either a student's personally identifiable information or information that either reveals or would tend to reveal a student's immigration status, including but not limited to, nationality or place of birth, to immigration authorities.

(b) In the event that immigration authorities request a student's personally identifiable information, the educational agency shall immediately notify the student's parents or guardians.

(c) All educational agencies shall develop a protocol in the event that immigration authorities request student data.

(d) All higher education agencies shall develop a protocol in the event that immigration authorities request student data, including a student's residential or campus dormitory information.

3. All requests for student data made by immigration authorities to educational agencies, higher education agencies, school employees, school safety personnel, or third-party contractors shall be recorded.

1 Each educational agency and higher education agency whose employees are
2 subject to this section shall issue an annual report listing the number
3 of such requests or communication, which shall be promptly delivered to
4 the office of the attorney general and the chief privacy officer
5 appointed pursuant to subdivision two of section two-d of this title.
6 This annual report shall be a public record.

7 4. This section shall not prohibit educational agency employees, high-
8 er educational agency employees, school employees, school safety person-
9 nel, or third-party contractors from sending or receiving information
10 regarding an individual's citizenship or immigration status to or from
11 any local, state, or federal agency.

12 5. The provisions of this article shall not prohibit educational agen-
13 cy employees, higher education agency employees, school employees,
14 school safety personnel, or third-party contractors from complying with
15 valid court orders or judicial warrants issued by an independent judge
16 appointed pursuant to article III of the United States constitution or
17 federal magistrate judge appointed pursuant to 28 USC § 631.

18 6. Within one hundred eighty days of the effective date of this
19 section, the commissioner, in consultation with the chief privacy offi-
20 cer, shall promulgate regulations to enforce this section and develop
21 one or more model policies for use by educational agencies and higher
22 education agencies. Such regulations shall include guidelines on devel-
23 oping a protocol in the event that immigration authorities request a
24 student's personally identifiable information, training requirements for
25 higher education agency employees, school employees and school safety
26 personnel, and any additional requirements for third-party contractors.
27 Following promulgation of such regulations, each educational agency
28 shall update its existing data security and privacy policy to ensure
29 that it is consistent with state and federal law.

30 7. (a) For the purposes of this section, the duties, protections, and
31 prohibitions set forth herein shall also apply to institutions of higher
32 education, including the city university of New York and the state
33 university of New York. Such institutions shall be deemed educational
34 agencies under the general supervision of the board of regents and the
35 commissioner.

36 (b) No provision in this section shall be construed to diminish or
37 impair the independent governance authority of the boards of trustees of
38 the city university of New York or the state university of New York.

39 (c) The obligations described in this section shall further extend to
40 all property owned, leased, or operated by such institutions, including
41 dormitories, residential facilities, and other campus-affiliated or
42 campus-adjacent areas under their jurisdiction.

43 § 1302. Duties of educational agencies and their employees pertaining
44 to immigration enforcement. 1. No educational agency, higher education
45 agency, school employee, school safety personnel, or third-party
46 contractor shall inquire about a person's citizenship, immigration
47 status, nationality, or country of origin, unless required by law or
48 necessary to administer a public program or benefit sought by such
49 person, including if the information sought is protected by the attor-
50 ney-client privilege. No such agency, employee, personnel, or contractor
51 shall investigate an individual regarding their immigration status.

52 2. (a) No educational agency, higher education school employee, school
53 safety personnel, or third-party contractor shall permit non-local civil
54 law enforcement to access non-public areas of school property and campus
55 property unless presented with a judicial warrant signed by a judge or

1 independent magistrate authorizing a search or seeking the arrest of an
2 individual present at the time the judicial warrant is presented.

3 (b) In the event that non-local civil law enforcement seek to detain
4 or interrogate a student, the educational agency or higher education
5 agency shall immediately notify the student's parents or guardians or
6 emergency contact.

7 (c) All educational agencies and higher education agencies shall
8 develop a protocol in the event that non-local civil law enforcement
9 seek to access non-public areas of school property or seek to detain or
10 interrogate a student in the custody of the school district.

11 3. All requests for assistance made by immigration authorities to
12 educational agencies, higher education agencies, school employees,
13 school safety personnel, or third-party contractors acting in the course
14 of their duties and all other communications between these parties shall
15 be recorded. Each educational agency and higher education agency shall
16 issue an annual report listing the number of each request or communi-
17 cation and stating the content and outcome of each request or communi-
18 cation, which shall be promptly delivered to the office of the attorney
19 general and which shall be a public record.

20 4. The provisions of this article shall not prohibit state employees
21 from complying with valid court orders or judicial warrants issued by an
22 independent judge appointed pursuant to Article III of the United States
23 constitution or federal magistrate judge appointed pursuant to 28 USC §
24 631.

25 5. (a) The commissioner shall promulgate regulations to enforce this
26 section and develop one or more model policies for use by educational
27 agencies.

28 (b) Such regulations shall include guidelines on developing a protocol
29 in the event that immigration authorities seek to access non-public
30 areas of school property or seek to detain or interrogate a student in
31 the custody of the school district.

32 (c) Such regulations shall include training requirements for school
33 employees and school safety personnel and any additional requirements
34 for third-party contractors.

35 (d) Such regulations shall also establish guidelines for incorporating
36 policies and procedures to safeguard the rights of undocumented students
37 into educational agencies' contracts or memoranda of understanding with
38 law enforcement as required by section twenty-eight hundred one-a of
39 this chapter.

40 6. Following the promulgation of the regulations established pursuant
41 to subdivision five of this section, each educational agency shall adopt
42 a district policy that complies with state law and regulations. If the
43 educational agency employs, contracts with, or otherwise retains local
44 law enforcement or public or private security personnel, it shall also
45 revise its written contract or memorandum of understanding in accordance
46 with the commissioner's regulations.

47 7. (a) The duties, protections, and prohibitions set forth in this
48 section shall also apply to institutions of higher education, including
49 the city university of New York and the state university of New York.
50 Such institutions shall be deemed educational agencies under the general
51 supervision of the board of regents and the commissioner.

52 (b) No provision in this section shall be construed to diminish or
53 impair the independent governance authority of the boards of trustees of
54 the city university of New York or the state university of New York.

1 (c) Such boards shall, however, issue guidance to ensure that institu-
2 tional policies, protocols, and agreements comply with the provisions of
3 this section and any regulations promulgated pursuant thereto.

4 (d) The obligations described in this section shall further extend to
5 all property owned, leased, or operated by such institutions, including
6 dormitories, residential facilities, and other campus-affiliated or
7 campus-adjacent areas under their jurisdiction.

8 § 7. Subdivision 1 of section 3625 of the education law, as amended by
9 section 11-a of part A of chapter 56 of the laws of 2022, is amended to
10 read as follows:

11 1. Form of transportation contracts. Every contract for transportation
12 of school children shall be in writing or in an electronic form approved
13 by the commissioner when available, and before such contract is filed
14 with the department as required by subdivision two of this section, the
15 same shall be submitted for approval to the superintendent of schools of
16 said district and such contract shall not be approved and filed by such
17 superintendent unless ~~he or she~~ they shall first investigate the same
18 with particular reference to the type of conveyance, the character and
19 ability of the driver, the routes over which the conveyances shall travel,
20 the time schedule, and such other matters as in the judgement of the
21 superintendent are necessary for the comfort and protection of the children
22 while being transported to and from school. Every such contract for
23 transportation of children shall contain an agreement upon the part of
24 the contractor that the vehicle shall come to a full stop before crossing
25 the track or tracks of any railroad and before crossing any state
26 highway. Such contract shall also contain an agreement upon the part of
27 the contractor that such contractor will comply with the district's
28 policies regarding communication and coordination with immigration
29 authorities as required by article twenty-five of this chapter. Failure
30 to so comply shall be grounds for termination of the contract.

31 § 8. Section 500-c of the correction law is amended by adding a new
32 subdivision 4-a to read as follows:

33 4-a. (a) The chief administrative officer shall not, by formal agree-
34 ment or otherwise, allow any officer or employee of a county correctional
35 facility to be subject to the direction or supervision of immigration
36 authorities, as defined in section 1.20 of the criminal procedure law.

37 (b) The chief administrative officer shall ensure that no officer or
38 employee of a county correctional facility spends time while on duty or
39 uses correctional facility resources for immigration enforcement, as
40 defined in section 1.20 of the criminal procedure law.

41 (c) All requests for assistance made by immigration authorities to
42 county jails or their officers acting in the course of their duties and
43 all other communications between corrections personnel and immigration
44 authorities shall be recorded. The chief administrative officer shall
45 produce an annual report listing all such requests and communications
46 and stating the content and outcome of request or communication, which
47 shall be promptly delivered to the office of the attorney general and
48 which shall be a public record.

49 § 9. Section 147 of the correction law is REPEALED.

50 § 10. Section 500-f of the correction law is REPEALED.

51 § 11. Section 621 of the correction law is amended by adding a new
52 subdivision 3 to read as follows:

53 3. This section shall not be construed to permit any law enforcement
54 officer or agency of this state or its subdivisions to participate in or
55 assist with immigration enforcement, as defined in section 1.20 of the
56 criminal procedure law. All law enforcement officers or agencies

1 furnishing information to agencies of other jurisdictions shall obtain
2 from the recipient agency a certification that such information will not
3 be used for immigration enforcement.

4 § 12. The executive law is amended by adding a new section 63-e to
5 read as follows:

6 § 63-e. Immigration status reports and databases. 1. The office of the
7 attorney general shall review all reports provided to it pursuant to
8 article fifteen-AA of this chapter, article nineteen-D of the general
9 municipal law, and article twenty of the correction law and shall
10 prepare an annual summary of such reports, which shall also identify any
11 alleged omissions or discrepancies in the reported information and any
12 information that may indicate a violation of state law. Such summary
13 shall be a public record.

14 2. The attorney general shall establish a system to solicit and
15 receive complaints from the public about improper use of resources by
16 state or local entities or employees for immigration enforcement and
17 improper sharing of information by state or local entities or employees
18 with immigration authorities. The attorney general shall investigate all
19 such complaints to determine whether a violation of state law occurred,
20 and may bring civil actions against state or local entities or employees
21 acting in their official capacity in the name of the people of the state
22 of New York to obtain appropriate equitable or declaratory relief if the
23 attorney general determines that a violation of state law occurred.

24 3. For any databases operated by state and local law enforcement agen-
25 cies, including databases maintained for the agency by private vendors,
26 the attorney general shall, by the first of January following the effec-
27 tive date of this section, in consultation with appropriate stakehold-
28 ers, publish guidance, audit criteria, and training recommendations
29 aimed at ensuring that such databases are governed in a manner that
30 limits the availability of information contained therein, to the fullest
31 extent practicable and consistent with federal and state law, to anyone
32 or any entity for the purpose of immigration enforcement. All state and
33 local law enforcement agencies are encouraged to adopt necessary changes
34 to database governance policies consistent with such guidance.

35 § 13. Subdivision 1 of section 17 of the public officers law is
36 amended by adding a new paragraph (aa) to read as follows:

37 (aa) For purposes of this section, the term "employee" shall include
38 all current or former employees of the state, the state university of
39 New York, the city university of New York; all current or former employ-
40 ees of any county, city, town, village, municipality, special district,
41 improvement district, community college, public authority, public bene-
42 fit corporation, board of cooperative educational services (BOCES),
43 vocational education and extension board, school district enumerated in
44 section one of chapter five hundred sixty-six of the laws of nineteen
45 hundred sixty-seven, public school district, participating employer in
46 the New York state and local retirement system, participating employer
47 in the New York state teachers' retirement system, participating employ-
48 er in the New York city employees' retirement system, participating
49 employer in the New York city police pension fund, participating employ-
50 er in the New York city fire pension fund, participating employer in the
51 teachers' retirement system of New York city, and participating employer
52 in the New York city board of education retirement system, that is
53 alleged to have criminally or civilly violated any federal, state, or
54 local law in connection with or resulting from their compliance with
55 article one hundred forty-five of the criminal procedure law, section
56 two hundred fifty-six-b of the executive law, article fifteen-AA of the

executive law, article nineteen-D of the general municipal law, section five hundred-c of the correction law, subdivision three of section six hundred twenty-one of the correction law, or section sixty-three-e of the executive law, within the scope of their employment or duties, provided that nothing in this section shall be construed to apply to acts in violation of the provisions of law referenced in this subdivision.

§ 14. This act shall take effect immediately; provided, however, that the amendments to section 500-c of the correction law made by section eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith.