

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 984

(Senator Smith)

Judicial Proceedings

Correctional Services - Private Immigration Detention Facilities - Zoning Requirement

This emergency bill prohibits, notwithstanding any other provision of law, the State or a unit of local government from approving the use of a building or structure as an immigration detention facility by a private entity unless the immigration detention facility is expressly included in the applicable zoning authority. In addition, the bill prohibits a private entity from operating or occupying a building or structure as an immigration detention facility without a use and occupancy authorization or change in use and occupancy approval consistent with the bill's provisions. The Attorney General may bring a civil action to enforce the bill's provisions. The court may issue temporary, preliminary, or permanent injunctive relief to prevent an act that would constitute a violation of the bill's provisions. A private entity that operates or attempts to operate an immigration detention facility in violation of the bill is subject to a civil penalty not exceeding \$10,000 for each day the violation continues. The remedies provided under the bill are in addition to any other remedy available under State or local law. The bill applies retroactively to affect any agreement between the State or a unit of local government and a private entity entered into before the effective date of the bill for the use of any building or structure if that building or structure is intended to be used as an immigration detention facility, as specified.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: For purposes of the bill's provisions, a building or structure must be considered proposed for use as an immigration detention facility, regardless of how the use is described in an application or permit request, if:

- individuals are intended to be held in involuntary custody and will not be free to leave; or
- the design, construction, or improvements include features consistent with secure or involuntary confinement, including: (1) perimeter security measures designed to prevent occupants from leaving; (2) controlled access points; or (3) locked holding areas.

A general zoning classification authorizing government, public, or institutional uses does not constitute express authorization for a building or structure to be used as an immigration detention facility by a private entity.

Current Law: Chapter 19 of the 2021 special session prohibits the State, local governments, and specified State and local agents from (1) entering into an agreement of any kind for the detention of individuals in an immigration detention facility owned, managed, or operated, in whole or in part, by a private entity; (2) paying, reimbursing, subsidizing, or defraying in any way any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity; (3) receiving any payment related to the detention of individuals in an immigration detention facility owned, managed, or operated in whole or in part, by a private entity; or (4) otherwise giving any financial incentive or benefit to any private entity or person in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity.

The State, local governments, and specified State and local agents are prohibited from approving a zoning variance or issuing a permit for the construction of a building or the reuse of existing buildings or structures by any private entity for use as an immigration detention facility unless the entity (1) provides notice to the public of the proposed zoning variance or permit action at least 180 days before authorizing the variance or issuing the permit and (2) solicits and hears public comments on the proposed zoning variance or permit action in at least two separate meetings open to the public.

The State, local governments, and specified State and local agents are prohibited from entering into or renewing an immigration detention agreement. Those with an existing immigration detention agreement must have exercised the termination provision contained

in the immigration detention agreement no later than October 1, 2022. In any dispute over an immigration detention agreement with the State, these provisions govern. However, the provisions may not be construed to authorize or prohibit the State, local governments, and specified State and local agents from entering into an agreement with the federal government under 8 U.S.C. § 1357(g).

“Immigration detention agreement” means any contract, agreement, intergovernmental service agreement, or a memorandum of understanding that authorizes a State or local government agency to house or detain individuals for federal civil immigration violations.

“Immigration detention facility” means any building, facility, or structure used, in whole or in part, to house or detain individuals for federal civil immigration violations.

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Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1017 (Delegate Wells, *et al.*) - Government, Labor, and Elections.

Information Source(s): Montgomery County; Maryland-National Capital Park and Planning Commission; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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js/hlb

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