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1 AN ACT concerning immigration.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Way Forward Act.

6 Section 5. The Illinois TRUST Act is amended by changing
7 Sections 5, 10, and 15 and by adding Sections 25 and 30 as
8 follows:

9 (5 ILCS 805/5)

10 Sec. 5. Legislative purpose. Recognizing that State law
11 does not currently grant State or local law enforcement the
12 authority to enforce federal civil immigration laws, it is the
13 intent of the General Assembly that nothing in this Act shall
14 be construed to authorize any law enforcement agency or law
15 enforcement official to enforce federal civil immigration law.
16 The changes made to the definitions of immigration detainer
17 and civil immigration warrant (formerly "non-judicial
18 immigration warrant") by Section 10 of this amendatory Act of
19 the 102nd General Assembly are declarative of existing law.
20 This Act shall not be construed to prohibit or restrict any
21 entity from sending to, or receiving from, the United States
22 Department of Homeland Security or other federal, State, or

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1 local government entity information regarding the citizenship
2 or immigration status of any individual under Sections 1373
3 and 1644 of Title 8 of the United States Code. Further, nothing
4 in this Act shall prevent a law enforcement officer from
5 contacting another law enforcement agency for the purposes of
6 clarifying or confirming the civil or criminal nature ~~and~~
7 ~~status of notifications or other records possible offenses in~~
8 ~~a record~~ provided by the National Crime Information Center, or

9 ~~detaining someone based on a notification in the Law~~
10 ~~Enforcement Agencies Data Administrative System unless it is~~
11 ~~clear that request is based on a non-judicial immigration~~
12 ~~warrant.~~

13 (Source: P.A. 100-463, eff. 8-28-17.)

14 (5 ILCS 805/10)

15 Sec. 10. Definitions. In this Act:

16 "Citizenship or immigration status" means all matters
17 regarding citizenship of the United States or any other
18 country or the authority to reside in or otherwise be present
19 in the United States.

20 "Civil immigration warrant" means any document that is not
21 approved or ordered by a judge that can form the basis for an
22 individual's arrest or detention for a civil immigration
23 enforcement purpose. "Civil immigration warrant" includes Form
24 I-200 "Warrant for the Arrest of Alien", Form I-203 "Order to
25 Detain or Release Alien", Form I-205 "Warrant of

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1 Removal/Deportation", Form I-286 "Notice of Custody
2 Determination", any predecessor or successor form, and all
3 warrants, hits, or requests contained in the "Immigration
4 Violator File" of the FBI's National Crime Information Center
5 (NCIC) database. "Civil immigration warrant" does not include
6 any criminal warrant.

7 "Contact information" means home address, work address,
8 telephone number, electronic mail address, social media
9 information, or any other personal identifying information
10 that could be used as a means to contact an individual.

11 "Immigration agent" means an agent of federal Immigration
12 and Customs Enforcement, federal Customs and Border
13 Protection, or any similar or successor agency.

14 "Immigration detainer" means a request to a State or local
15 law enforcement agency to provide notice of release or
16 maintain custody of an individual based on an alleged
17 violation of a civil immigration law, including detainers
18 issued under Sections 1226 or 1357 of Title 8 of the United
19 States Code or 287.7 or 236.1 of Title 8 of the Code of Federal
20 Regulations. "Immigration detainer" includes Form I-247A
21

22 ~~"Immigration Detainer - Notice of Action" and any predecessor~~
 23 ~~or successor form. a document issued by an immigration agent~~
 24 ~~that is not approved or ordered by a judge and requests a law~~
 25 ~~enforcement agency or law enforcement official to provide~~
 26 ~~notice of release or maintain custody of a person, including a~~
~~detainer issued under Section 1226 or 1357 of Title 8 of the~~

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1 ~~United States Code or Section 236.1 or 287.7 of Title 8 of the~~
 2 ~~Code of Federal Regulations.~~

3 "Law enforcement agency" means an agency of the State or
 4 of a unit of local government charged with enforcement of
 5 State, county, or municipal laws or with managing custody of
 6 detained persons in the State.

7 "Law enforcement official" means any individual with the
 8 power to arrest or detain individuals, including law
 9 enforcement officers, county corrections officer, and others
 10 employed or designated by a law enforcement agency. "Law
 11 enforcement official" includes any probation officer.

12 ~~"Non-judicial immigration warrant" means a Form I-200 or~~
 13 ~~I-205 administrative warrant or any other immigration warrant~~
 14 ~~or request that is not approved or ordered by a judge,~~
 15 ~~including administrative warrants entered into the Federal~~
 16 ~~Bureau of Investigation's National Crime Information Center~~
 17 ~~database.~~

18 (Source: P.A. 100-463, eff. 8-28-17.)

19 (5 ILCS 805/15)

20 Sec. 15. Prohibition on enforcing federal civil
21 immigration laws.

22 (a) A law enforcement agency or law enforcement official
 23 shall not detain or continue to detain any individual solely
 24 on the basis of any immigration detainer or civil non-judicial
 25 immigration warrant or otherwise comply with an immigration

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1 detainer or civil non-judicial immigration warrant.

2 (b) A law enforcement agency or law enforcement official

3 shall not stop, arrest, search, detain, or continue to detain
4 a person solely based on an individual's citizenship or
5 immigration status.

6 ~~(c) (Blank). This Section 15 does not apply if a law
7 enforcement agency or law enforcement official is presented
8 with a valid, enforceable federal warrant. Nothing in this
9 Section 15 prohibits communication between federal agencies or
10 officials and law enforcement agencies or officials.~~

11 (d) A law enforcement agency or law enforcement official
12 acting in good faith in compliance with this Section who
13 releases a person subject to an immigration detainer or civil
14 ~~non-judicial~~ immigration warrant shall have immunity from any
15 civil or criminal liability that might otherwise occur as a
16 result of making the release, with the exception of willful or
17 wanton misconduct.

18 (e) A law enforcement agency or law enforcement official
19 may not inquire about or investigate the citizenship or
20 immigration status or place of birth of any individual in the
21 agency or official's custody or who has otherwise been stopped
22 or detained by the agency or official. Nothing in this
23 subsection shall be construed to limit the ability of a law
24 enforcement agency or law enforcement official, pursuant to
25 State or federal law, to notify a person in the law enforcement
26 agency's custody about that person's right to communicate with

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1 consular officers from that person's country of nationality,
2 or facilitate such communication, in accordance with the
3 Vienna Convention on Consular Relations or other bilateral
4 agreements. Nothing in this subsection shall be construed to
5 limit the ability of a law enforcement agency or law
6 enforcement official to request evidence of citizenship or
7 immigration status pursuant to the Firearm Owners
8 Identification Card Act, the Firearm Concealed Carry Act,
9 Article 24 of the Criminal Code of 2012, or 18 United States
10 Code Sections 921 through 931.

11 (f) Unless otherwise limited by federal law, a law
12 enforcement agency or law enforcement official may not deny
13 services, benefits, privileges, or opportunities to an
14 individual in custody or under probation status, including,

15 but not limited to, eligibility or placement in a lower
16 custody classification, educational, rehabilitative, or
17 diversionary programs, on the basis of the individual's
18 citizenship or immigration status, the issuance of an
19 immigration detainer or civil immigration warrant against the
20 individual, or the individual being in immigration removal
21 proceedings.

22 (g)(1) No law enforcement agency, law enforcement
23 official, or any unit of State or local government may enter
24 into or renew any contract, intergovernmental service
25 agreement, or any other agreement to house or detain
26 individuals for federal civil immigration violations.

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1 (2) Any law enforcement agency, law enforcement official,
2 or unit of State or local government with an existing
3 contract, intergovernmental agreement, or other agreement,
4 whether in whole or in part, that is utilized to house or
5 detain individuals for civil immigration violations shall
6 exercise the termination provision in the agreement as applied
7 to housing or detaining individuals for civil immigration
8 violations no later than January 1, 2022.

9 (h) Unless presented with a federal criminal warrant, or
10 otherwise required by federal law, a law enforcement agency or
11 official may not:

12 (1) participate, support, or assist in any capacity
13 with an immigration agent's enforcement operations,
14 including any collateral assistance such as coordinating
15 an arrest in a courthouse or other public facility,
16 providing use of any equipment, transporting any
17 individuals, or establishing a security or traffic
18 perimeter surrounding such operations, or any other
19 on-site support;

20 (2) give any immigration agent access, including by
21 telephone, to any individual who is in that agency's
22 custody;

23 (3) transfer any person into an immigration agent's
24 custody;

25 (4) permit immigration agents use of agency facilities
26 or equipment, including any agency electronic databases

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1 not available to the public, for investigative interviews
2 or other investigative or immigration enforcement purpose;

3 (5) enter into or maintain any agreement regarding
4 direct access to any electronic database or other
5 data-sharing platform maintained by any law enforcement
6 agency, or otherwise provide such direct access to the
7 U.S. Immigration and Customs Enforcement, United States
8 Customs and Border Protection or any other federal entity
9 enforcing civil immigration violations;

10 (6) provide information in response to any immigration
11 agent's inquiry or request for information regarding any
12 individual in the agency's custody; or

13 (7) provide to any immigration agent information not
14 otherwise available to the public relating to an
15 individual's release or contact information, or otherwise
16 facilitate for an immigration agent to apprehend or
17 question an individual for immigration enforcement.

18 (i) Nothing in this Section shall preclude a law
19 enforcement official from otherwise executing that official's
20 duties in investigating violations of criminal law and
21 cooperating in such investigations with federal and other law
22 enforcement agencies (including criminal investigations
23 conducted by federal Homeland Security Investigations (HSI)).
24 in order to ensure public safety.

25 (Source: P.A. 100-463, eff. 8-28-17.)

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1 (5 ILCS 805/25 new)

2 Sec. 25. Reporting requirements.

3 (a) In order to ensure compliance with this Act, starting
4 on the effective date of this amendatory Act of the 102nd
5 General Assembly, law enforcement agencies shall submit a
6 report annually to the Attorney General. This report shall
7 include:
8

9 (1) Any requests from the United States Department of
10 Homeland Security, including, but not limited to,
11 Immigration and Customs and Enforcement, with respect to
12 participation, support, or assistance in any immigration
13 agent's civil enforcement operation, and any documentation
14 regarding how the request was addressed, provided that if
15 an agency does not receive any such requests during a
16 reporting period, the agency shall certify and report that
it received no such requests;

17 (2) All immigration detainers or civil immigration
18 warrants received by the law enforcement agency, provided
19 that if an agency does not receive any such detainers or
20 warrants during a reporting period, the agency shall
21 certify and report that it received no such detainers or
22 warrants. The reports shall include:

23 (A) the date when the immigration detainer or
24 civil immigration warrant was received;

25 (B) the date and time the individual subject to
26 the immigration detainer or civil immigration warrant

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1 posted criminal bail, if applicable;

2 (C) whether the individual subject to the
3 immigration detainer or civil immigration warrant was
4 released or transferred;

5 (D) the date and time the individual was released
6 or transferred; and

7 (E) if the individual is transferred, to which
8 governmental agency's custody.

9 (b) Law enforcement agencies shall not include names or
10 other personally identifying information in any reports
11 required under this Section.

12 (5 ILCS 805/30 new)

13 Sec. 30. Attorney General enforcement provisions. In order
14 to ensure compliance with this Act:

15 (a) The Attorney General shall have authority to conduct
16 investigations into violations of this Act. The Attorney
17 General may: (1) require a law enforcement agency, law
18 enforcement official, or any other person or entity to file a

19 statement or report in writing under oath or otherwise, as to
 20 all information the Attorney General may consider necessary;
 21 (2) examine under oath any law enforcement official or any
 22 other person alleged to have participated in or with knowledge
 23 of the alleged violation; or (3) issue subpoenas, obtain
 24 records, conduct hearings, or take any other actions in aid of
 25 any investigation. In the event a law enforcement agency, law

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1 enforcement official, or other person or entity fails to
 2 comply, in whole or in part, with a subpoena or other
 3 investigative request issued pursuant to this paragraph, the
 4 Attorney General may compel compliance through an action in
 5 the circuit court.

6 (b) Upon his or her own information or upon the complaint
 7 of any person, the Attorney General may maintain an action for
 8 declaratory, injunctive or any other equitable relief in the
 9 circuit court against any law enforcement agency, law
 10 enforcement official, or other person or entity who violates
 11 any provision of this Act. These remedies are in addition to,
 12 and not in substitution for, other available remedies.

13 Section 10. The Voices of Immigrant Communities Empowering
 14 Survivors (VOICES) Act is amended by changing Section 10 and
 15 by adding Sections 11, 20, 25, and 30 as follows:

16 (5 ILCS 825/10)

17 Sec. 10. Certifications for victims of qualifying criminal
 18 activity.

19 (a) The head of each certifying agency shall designate an
 20 official or officials in supervisory roles, either within the
 21 agency or, by agreement with another agency with concurrent
 22 jurisdiction over the geographic area or subject matter
 23 covered by that agency, within that other agency. Designated
 24 officials may not be members of a collective bargaining unit

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1 represented by a labor organization, unless the official is an

2 attorney or is employed in an agency in which all supervisory
3 officials are members of a collective bargaining unit.

4 Certifying officials shall:

5 (1) respond to requests for completion of
6 certification forms received by the agency, as required by
7 this Section; and

8 (2) make information regarding the agency's procedures
9 for certification requests publicly available for victims
10 of qualifying criminal activity and their representatives.

11 (b) Any person seeking completion of a certification form
12 shall first submit a request for completion of the
13 certification form to the certifying official for any
14 certifying agency that detected, investigated, or prosecuted
15 the criminal activity upon which the request is based.

16 (c) A request for completion of a certification form under
17 this Section may be submitted by a representative of the
18 person seeking the certification form, including, but not
19 limited to, an attorney, accredited representative, or
20 domestic violence or sexual assault services provider.

21 (d) Upon receiving a request for completion of a
22 certification form, a certifying official shall complete the
23 certification form for any victim of qualifying criminal
24 activity. In completing the certification form, there is a
25 rebuttable presumption that a victim is helpful, has been
26 helpful, or is likely to be helpful to the detection or

1 investigation or prosecution of that qualifying criminal
2 activity, if the victim has not refused or failed to provide
3 information and assistance reasonably requested by law
4 enforcement. The certifying official shall fully complete and
5 sign the certification form and, regarding victim helpfulness,
6 include specific details about the nature of the crime
7 investigated or prosecuted and a detailed description of the
8 victim's helpfulness or likely helpfulness to the detection or
9 investigation or prosecution of the criminal activity. If the
10 certifying official cannot determine that the applicant is a
11 victim of qualifying criminal activity, the certifying
12 official may provide written notice to the person or the
13 person's representative explaining why the available evidence

14 ~~does not support a finding that the person is a victim of~~
15 ~~qualifying criminal activity.~~ The certifying official shall
16 complete the certification form and provide it to the person
17 within 90 business days of receiving the request, except:

18 (1) if the person making the request for completion of
19 the certification form is in federal immigration removal
20 proceedings or detained, the certifying official shall
21 complete and provide the certification form to the person
22 no later than 21 business days after the request is
23 received by the certifying agency;

24 (2) if the children, parents, or siblings of the
25 person making the request for completion of the
26 certification form would become ineligible for benefits

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1 under Sections 1184(p) and 1184(o) of Title 8 of the
2 United States Code by virtue of the person's children
3 having reached the age of 21 years, the person having
4 reached the age of 21 years, or the person's sibling
5 having reached the age of 18 years within 90 business days
6 from the date that the certifying official receives the
7 certification request, the certifying official shall
8 complete and provide the certification form to the person
9 no later than 21 business days after the request is
10 received by the certifying agency;

11 (3) if the person's children, parents, or siblings
12 under paragraph (2) of this subsection (d) would become
13 ineligible for benefits under Sections 1184(p) and 1184(o)
14 of Title 8 of the United States Code in less than 21
15 business days of receipt of the certification request, the
16 certifying official shall complete and provide a
17 certification form to the person within 5 business days;
18 or

19 (4) a certifying official may extend the time period
20 by which it must complete and provide the certification
21 form to the person as required under this subsection (d)
22 only upon written agreement with the person or person's
23 representative.

24 Requests for expedited completion of a certification form

25 under paragraphs (1), (2), and (3) of this subsection (d)
26 shall be affirmatively raised by the person or that person's

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1 representative in writing to the certifying agency and shall
2 establish that the person is eligible for expedited review.

3 (e) A certifying official who issued an initial
4 certification form shall complete and reissue a certification
5 form within 90 business days of receiving a request from a
6 victim to reissue. If the victim seeking recertification has a
7 deadline to respond to a request for evidence from United
8 States Citizenship and Immigration Services, the certifying
9 official shall complete and issue the form no later than 21
10 business days after the request is received by the certifying
11 official. Requests for expedited recertification shall be
12 affirmatively raised by the victim or victim's representative
13 in writing and shall establish that the victim is eligible for
14 expedited review. A certifying official may extend the
15 deadline by which he or she will complete and reissue the
16 certification form only upon written agreement with the victim
17 or victim's representative.

18 (f) Notwithstanding any other provision of this Section, a
19 certifying official's completion of a certification form shall
20 not be considered sufficient evidence that an applicant for a
21 U or T visa has met all eligibility requirements for that visa
22 and completion of a certification form by a certifying
23 official shall not be construed to guarantee that the victim
24 will receive federal immigration relief. It is the exclusive
25 responsibility of federal immigration officials to determine
26 whether a person is eligible for a U or T visa. Completion of a

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1 certification form by a certifying official merely verifies
2 factual information relevant to the federal immigration
3 benefit sought, including information relevant for federal
4 immigration officials to determine eligibility for a U or T
5 visa. By completing a certification form, the certifying
6 official attests that the information is true and correct to

7 the best of the certifying official's knowledge. No provision
8 in this Act limits the manner in which a certifying officer or
9 certifying agency may describe whether the person has
10 cooperated or been helpful to the agency or provide any
11 additional information the certifying officer or certifying
12 agency believes might be relevant to a federal immigration
13 officer's adjudication of a U or T visa application. If, after
14 completion of a certification form, the certifying official
15 later determines the person was not the victim of qualifying
16 criminal activity or the victim unreasonably refuses to assist
17 in the investigation or prosecution of the qualifying criminal
18 activity of which he or she is a victim, the certifying
19 official may notify United States Citizenship and Immigration
20 Services in writing.

21 (g) A certifying official or agency receiving requests for
22 completion of certification forms shall not disclose the
23 immigration status of a victim or person requesting the
24 certification form, except to comply with federal law or State
25 law, legal process, or if authorized, by the victim or person
26 requesting the certification form.

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1 (Source: P.A. 100-1115, eff. 1-1-19.)

2 (5 ILCS 825/11 new)

3 Sec. 11. Denials.

4 (a) If the certifying official cannot determine that the
5 requester is a victim of a qualifying criminal activity, the
6 certifying official shall provide written notice to the person
7 or the person's representative explaining why the available
8 evidence does not support a finding that the person is a victim
9 of qualifying criminal activity. The certifying official shall
10 submit the notice to the address provided in the request and
11 shall provide contact information should the requester desire
12 to appeal the decision. The certifying agency or certifying
13 official shall accept all appeals and must respond to the
14 appeals within 30 business days.

15 (b) Notwithstanding subsection (a), no requester is
16 required to exhaust an administrative appeal under subsection
17 (a) before filing a mandamus action or seeking other equitable
18 relief in circuit court for a completed certification form

19 required under Section 10.

20 (5 ILCS 825/20 new)

21 Sec. 20. Reporting requirements.

22 (a) In order to ensure compliance with this Act, starting
23 on the effective date of this amendatory Act of the 102nd
24 General Assembly, law enforcement agencies shall submit a

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1 report annually to the Attorney General. This report shall
2 include the following information regarding any requests for
3 completion of a certification form under Section 10 of this
4 Act:

- 5 (1) the date of receipt of such request; and
- 6 (2) the date on which the law enforcement agency
7 provided the completed certification form to the requester
8 or provided written notice explaining why the available
9 evidence does not support a finding that the requester is
10 a victim of qualifying criminal activity.

11 If an agency receives no requests for completion of a
12 certification form during a reporting period, the agency shall
13 certify and report that it received no such requests.

14 (b) Law enforcement agencies shall not include names or
15 other personally identifying information in any reports
16 required under this Section.

17 (5 ILCS 825/25 new)

18 Sec. 25. Training. Each certifying agency shall arrange
19 for regular training for officials designated under subsection
20 (a) of Section 10 of this Act regarding all requirements of
21 this Act.

22 (5 ILCS 825/30 new)

23 Sec. 30. Attorney General enforcement provisions. In order
24 to ensure compliance with this Act:

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1 (a) The Attorney General shall have authority to conduct

2

investigations into violations of this Act. The Attorney

3 General may:

4 (1) require a law enforcement agency, law enforcement
5 official, or any other person or entity to file a
6 statement or report in writing under oath or otherwise, as
7 to all information the Attorney General may consider
8 necessary;

9 (2) examine under oath any law enforcement official or
10 any other person alleged to have participated in or with
11 knowledge of the alleged violation; or

12 (3) issue subpoenas, obtain records, conduct hearings,
13 or take any other actions in aid of any investigation. In
14 the event a law enforcement agency, law enforcement
15 official, or other person or entity fails to comply, in
16 whole or in part, with a subpoena or other investigative
17 request issued pursuant to this paragraph, the Attorney
18 General may compel compliance through an action in the
19 circuit court.

20 (b) Upon his or her own information or upon the complaint
21 of any person, the Attorney General may maintain an action for
22 declaratory, injunctive or any other equitable relief in the
23 circuit court against any law enforcement agency, law
24 enforcement official, or other person or entity who violates
25 any provision of this Act. These remedies are in addition to,
26 and not in substitution for, other available remedies.

1 Section 97. Severability. If any provision of this Act or
2 its application to any person or circumstances is held
3 invalid, the invalidity of that provision or application does
4 not affect other provisions or applications of this Act that
5 can be given effect without the invalid provision or
6 application.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.