

Introduced September 8, 2020
Public Hearing September 21, 2020
Council Action October 5, 2020
Executive Action October 7, 2020
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 12

Bill No. 51 -2020

Introduced by: Liz Walsh

AN ACT prohibiting the Howard County Department of Corrections from accepting into its custody persons detained by federal immigration law enforcement agencies and housing those persons as they await disposition of exclusively immigration-related proceedings.

Introduced and read first time September 8, 2020. Ordered posted and hearing scheduled.
By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on September 21, 2020.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on October 5, 2020 and Passed , Passed with amendments _____, Failed _____.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6th day of October, 2020 at 2:45 a.m./p.m.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Vetoed
Approved by the County Executive October 7, 2020

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 WHEREAS, long faulted by human rights advocates for its over-policing and discriminatory
2 methodologies and tactics, federal immigration law enforcement has for many years been
3 the most heavily funded agency in federal law enforcement, by a lot; in 2012, Congress
4 appropriated to that singular purpose \$4 billion more than was received by all of the other
5 major criminal law enforcement agencies combined, a total of \$18 billion;

6 WHEREAS, by 2018—and invigorated by a United States President who openly and repeatedly
7 dehumanizes, devalues and vilifies immigrants—that federal investment had risen to \$24
8 billion;

9 WHEREAS, acting on the explicit racial animus of its Executive in Chief, the present
10 Administration has furthered policies and practices intended to isolate, exclude and instill
11 fear in Black and Brown immigrants specifically, their families and communities at large:
12 banning travel from several majority-Muslim countries, suspending refugee admissions to
13 the United States; terminating special protections from removal for migrants from nations
14 experiencing war and natural disasters, including Nicaragua, Honduras, Haiti and El
15 Salvador; increasing actual and threatened raids and deportations of undocumented
16 migrants; and, most universally condemned, separating children from their parents and
17 families as they enter the United States from Mexico, and detaining those children in
18 unconscionable conditions.

19 WHEREAS, United States Immigration and Customs Enforcement (“ICE”) plays a central role in
20 this cruel and immoral regime;

21 WHEREAS, according to Pew Research, in the year between 2016 and 2017, ICE arrests of
22 persons with no prior criminal convictions in the Baltimore area increased by 206%; over
23 that same year, the number of persons ICE detained nationally without any known
24 convictions increased 146% (up more than 22,000 arrests), compared with a 12% rise
25 among those with past criminal convictions (up nearly 11,000); and those ICE detainees
26 with pending criminal charges were overwhelmingly non-violent crime offenders; Pew
27 Research reported that general traffic offenses topped the list of most common charges
28 (24,438, or 17% of all charges);

29 WHEREAS, Howard County is one of only three counties remaining in the State of Maryland
30 that continue to receive and house detainees presented by ICE pursuant to their existing

1 agreements with federal immigration authorities; in Howard County, the existing
2 agreement with ICE dates back to 1995;

3 WHEREAS, on January 30, 2020, sixty-seven Maryland State Delegates co-sponsored The
4 Dignity Not Detention Act, HB677—cross-filed with SB50, itself co-sponsored by
5 another eight State Senators—which legislation mandated the termination of any existing
6 immigrant detention agreements within the State, including Howard County’s; three of
7 HB677’s Delegate-sponsors represent Howard County;

8 WHEREAS, the COVID-19 global pandemic and the risks it presents has only exacerbated ICE’s
9 penchant and potential for cruelty;

10 WHEREAS, on March 24, 2020, the National Immigration Project of the National Lawyers
11 Guild, the Capital Area Immigrants’ Rights Coalition (CAIR Coalition), the American
12 Civil Liberties Union and ACLU of Maryland sued ICE on behalf of immigrants then
13 detained in and by Howard and Worcester counties; those human rights groups sought
14 release of civil detainees being held who were at highest risk for serious illness or death if
15 infected with COVID-19;

16 WHEREAS, eight days earlier, as of March 16, 2020, Howard County had determined to suspend
17 all new ICE intakes due to the pandemic;

18 WHEREAS, on March 27, 2020, Howard County held sixty immigration-related detainees in its
19 Jessup facility; by April 3, 2020, that count had dwindled to thirty-eight; as of June 29,
20 2020, Howard County reports, its ICE detainees numbered only twenty-nine;

21 WHEREAS, for some time now, the ICE contract imposes costs on Howard County’s own local
22 taxpayers and diverts funds from the county’s own local needs: ICE’s agreed
23 compensation to the County for housing each detainee, per day, is \$110; the actual costs
24 associated with housing each ICE detainee, Howard County reports, is \$8 more; at
25 present, Howard County is effectively subsidizing ICE;

26 WHEREAS, the independent, nonpartisan and nonprofit news site Maryland Matters recently
27 recounted the stories of four detainees ICE presented to Howard County for immigration-
28 related detention (August 19, 2020 *Ex-Inmates Tell Their Stories as Criticism of Howard*
29 *Co. ICE Contract Intensifies*, by Horus Alas); two of the four men interviewed had no
30 criminal record, no apparent records of arrest even; both described ICE agents arriving

1 promptly on the heels of local law enforcement, at a 6:30am traffic stop in Prince
2 George’s County or along a Howard County roadside, waiting on a tow;

3 WHEREAS, the recent Maryland Matters report followed others detailing the mounting
4 opposition to Howard County’s contract with ICE (*see, e.g.,* July 18, 2020: *Hundreds*
5 *March in Ellicott City to Protest Howard County’s Relationship with ICE*, by Ana Faguy,
6 Baltimore Sun; June 22, 2020: *Protest at Howard’s Detention Center Calls Out County’s*
7 *Contract with ICE Amid Coronavirus*, by Ana Faguy, Baltimore Sun; *Howard Coalition*
8 *Calls on County Officials to End ICE Contract*, by Jess Nocera, Baltimore Sun; January
9 31, 2020: *How Outraged Activists in Maryland Counties are Pressuring Officials to Cut*
10 *Ties with ICE*, by Alison Knezevich, Washington Post; October 17, 2019: *Howard*
11 *Coalition Calls on County Officials to End Contract*, by Jess Nocera, Baltimore Sun;
12 August 11, 2019: *“We Are All Accountable,” Maryland’s Jewish Community Protests*
13 *ICE in Howard County*, by Phil Davis, Baltimore Sun).

14 WHEREAS, Howard County has a strong tradition of leadership on issues of human rights,
15 respecting the rights and dignity of all human beings, regardless of their race, religion,
16 ethnicity, country of origin or immigration status;

17 WHEREAS, Howard County is comprised of immigrants from throughout the world who
18 contribute not only to that strong tradition of human rights leadership, but also to our
19 community’s social vitality, cultural richness and economic strength;

20 WHEREAS, the Howard County Coalition for Immigrant Justice—whose membership includes
21 the Columbia Jewish Congregation, Howard County Indivisible Immigration Action
22 Team, Our Revolution Howard County, ACLU of Maryland, CASA in Action, Friends
23 Committee on Immigration and Refugees, Indian Cultural Association of Howard
24 County, Friends of Latin America, Jews United for Justice, Unitarian Universalist
25 Congregation of Columbia, Asian Americans Advancing Justice and the Chinese-
26 American Network for Diversity and Opportunity—has for years advocated for an end to
27 the County’s practice of housing detainees presented by ICE. More recently those
28 organizations have been joined by scores of younger leaders, like HoCo for Justice, who
29 have added their voices to the clarion call: end Howard County’s contract with ICE, now.

30 ***Section 1. Now, Therefore, Be It Enacted by the County Council of Howard County, Maryland,***
31 ***that the Howard County Code is amended as follows:***

1 *By amending:*

2 *Title 7 – Courts.*

3 *Subtitle 5. – Department of Corrections.*

4 *Section 7.501. - Department of Corrections.*

5
6 **Title 7 – Courts.**

7 **Subtitle 5. – Department of Corrections.**

8
9 Sec. 7.501. - Department of Corrections.

10 (a) *Head.* The Director of Corrections shall head the Department of Corrections.

11 (b) *Qualifications of Director of Corrections.* The Director of Corrections shall be
12 thoroughly trained and experienced in the principles and practices of correctional
13 institutional management. The Director shall have had at least ten years of increasingly
14 responsible experience maintaining security and discipline in a public or military
15 correctional institution or system, including a minimum of five years in a managerial
16 position.

17 (c) *Duties and Responsibilities.* The Department of Corrections shall be responsible
18 for:

19 (1) The detention of persons awaiting trial.

20 (2) The safekeeping, care and custody of all inmates in the County Detention
21 Center from the time of their lawful commitment until their lawful discharge.

22 (3) Other duties and responsibilities. The Department of Corrections shall
23 perform such other functions as may be prescribed by directive of the County Executive
24 or by law.

25 (D) *PROHIBITIONS:*

26 NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE CONTRARY, THE
27 DEPARTMENT OF CORRECTIONS SHALL NOT DETAIN OR KEEP IN CUSTODY ANY PERSON
28 DETAINED IN FEDERAL CUSTODY FOR A FEDERAL IMMIGRATION VIOLATION, EXCEPT TO THE
29 EXTENT REQUIRED FOR AN UNRELATED STATE LAW PURPOSE.

1 **Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland that
2 *this Act shall become effective 61 days after its enactment.*



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013 Voice/Relay

Calvin Ball
Howard County Executive
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FAX 410-313-3051

October 7, 2020

Deb Jung, County Council Chairperson
Howard County Council
3430 Courthouse Drive
Ellicott City, Maryland 21043

Dear Council Chairperson Jung:

Today, by the authority granted by Section 209 of the Howard County Charter, I have vetoed Council Bill No. 51-2020 (CB-51).

Four years ago, I co-sponsored CB-9, a bill that would designate Howard County as a “sanctuary jurisdiction” for undocumented immigrants. This legislation was important to me to help protect many of our residents who lived in constant fear of being detained and deported as they worked hard to support their families and children. That legislation was unfortunately vetoed by the previous County Executive. Despite this setback, I have never given up on being an ally to our immigrant communities.

The CB-9 legislation did not address or include ending the long-standing ICE contract with the Howard County Department of Corrections. The intent of the legislation was to help protect innocent, undocumented residents from being persecuted. Individuals are never detained at the Howard County Detention Center solely because of their immigration status, and no women or children in ICE custody have ever been detained there.

In the wake of national news about the conditions and treatment of ICE detainees under the Trump Administration, it is understandable that our concerned and compassionate residents do not support ICE’s actions toward immigrant communities. Advocates have focused their response on denying the Trump Administration access to the Howard County Detention Center as retaliation toward his aggressive rhetoric and actions; however, this reaction is short-sighted.

Council Member David Yungmann noted during the vote on CB-51, that: “The misinformation being fed to people and their willingness to believe it on this issue has been sad and frustrating. Any moderate thinker who reads the recitals in this bill or tuned into our work session will recognize this as nothing more than a knee jerk response to national politics, national immigration policies at a tremendous cost to Howard County taxpayers.”

If the goal is to ensure that all ICE detainees are treated humanely and with dignity in the Trump Administration era, we should want them housed at the Howard County Detention Center. Even the sponsor of CB-51, Council Vice Chair Liz Walsh, noted during a council work session that, after touring and witnessing the daily operations of the Detention Center, she was “not alleging human rights violations within our own walls.”



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Our Department of Corrections has ensured that our Detention Center exceeds extensive state and federal standards, for which they are audited annually, and has never been cited for inadequate conditions. In the wake of the COVID-19 pandemic, our corrections facility has not only instituted the recommended safety protocols but have gone beyond the required measures to ensure the health and safety of inmates. To date, after seven rounds of COVID-19 testing, not one ICE detainee has tested positive for the virus. The Howard County Detention Center's medical providers must also meet the community standard of care and provide medical and mental health care to all our inmates within 24 hours of a request. And if inmates believe they are not properly treated, which has been extremely rare, there is an urgent review and oversight process.

Over the past year, advocates have come to us with recommended changes to the Detention Center's policies relating to housing detainees in ICE custody. Weeks ago, after a year of meetings and discussions with immigrant advocates, we announced that the Howard County Department of Corrections has updated its policy and will only hold ICE detainees at the Howard County Detention Center who been convicted of a crime of violence as defined in section 14-101 of the Criminal Law Article of the Annotated Code of Maryland. Under the previous policy, the Department of Corrections housed ICE detainees who were charged with or convicted of jailable offenses. The updated policy was supported and endorsed by CASA, CAIR, and other immigration advocates and attorneys who represent ICE detainees.

Throughout our discussions with CASA and other stakeholders, our goal was to ensure that the policies regarding the County's contract with ICE addressed community concerns about justice and fairness while balancing the safety of our community. We believe that our policy revision will preserve public safety by ensuring that the contract between ICE and the Howard County Department of Corrections clearly protects our community from convicted violent offenders while maintaining our commitment to fair treatment for all members of our community. By revising the Detention Center's policy for housing ICE detainees under the contract, we have provided a practical long-term solution.

The Council's passing of CB-51 would end a 25-year contract that has helped make Howard County and the State of Maryland safer. By prohibiting housing ICE detainees in the Detention Center, the bill would result in ICE detainees being moved to other facilities in other states, so making it tougher for ICE detainees to access legal representation and their families. Additionally, I agree with the Foreign-Born Information and Referral Network (FIRN) who strongly opposed CB-51 because it "fails to provide a comprehensive plan and solution for detainees who would be transferred if the ICE contract were to be canceled."

Council Member Opel Jones noted during the CB-51 vote that the majority of ICE detainees housed in the Howard County Detention Center are from the Baltimore/Washington Metropolitan area will likely be moved into less desirable facilities, and specifically, "they could end up far from support networks of family and friends, in rural detention centers in Georgia,



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Virginia, Louisiana, or North Carolina; with some of the worst reputations in the country for unsanitary, unsafe and abusive conditions.”

As Council Member Christiana Mercer Rigby recognized during the CB-51 vote: “Every resident of the United States, documented or undocumented, deserves legal representation and due process.” Even while voting in favor of CB-51, Council Member Mercer Rigby stated that her vote came with the “knowledge on my conscience that this legislation will not help current detainees who will likely be transferred to a worse ICE facility in the short term.”

These points from Council Members Jones and Mercer Rigby, as well as comments from FIRN and recommendations from other advocates begs the questions: if we shut out ICE detainees from our facility, what happens to them? Where will they end up? And do we have the faith, trust and knowledge about the conditions and treatment in federal detainment facilities like we have in our Detention Center?

I remain confident that our updated Detention Center policy strikes the right balance of ensuring safety for County residents and businesses while allowing for fair treatment for those who have been convicted of serious crimes by the criminal justice system.

Therefore, and for the above reasons, I am vetoing CB-51.

Sincerely,

Calvin Ball
County Executive

cc: Howard County Council
Diane Schwartz Jones, Council Administrator
Gary W. Kuc, County Solicitor

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

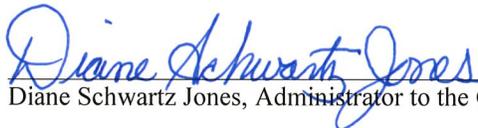
BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on November 2, 2020.



Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council