

Initiative 95: Law Enforcement Communication with Federal Immigration Authorities

Placed on the ballot by citizen initiative • Passes with 55 percent of the vote

Initiative 95 proposes amending the Colorado Constitution to:

- require law enforcement to make a reasonable effort to verify the immigration status of an individual charged with a crime if the charge is a crime of violence or the individual has a prior felony conviction; and
- notify federal immigration authorities within 72 hours of filing charges if the charged individual is not confirmed to be lawfully present in the United States.

What Your Vote Means

YES

A “yes” vote on Initiative 95 requires law enforcement to notify federal immigration authorities after filing charges for certain crimes against individuals who are not confirmed to be lawfully present.

NO

A “no” vote on Initiative 95 maintains current law, which limits cooperation with federal immigration authorities.

Summary and Analysis of Initiative 95

What does the measure do?

Initiative 95 requires certified peace officers employed by a law enforcement agency, correctional officers, and certain employees of district attorney offices to notify the federal Department of Homeland Security within 72 hours of charging someone with a crime if the charge is a crime of violence or if the individual has a prior felony conviction. The notification requirement applies if the charged individual is not lawfully present in the U.S., or if their lawful status cannot be verified.

Which individuals are subject to notification?

The measure applies to an individual charged with a crime of violence, which are crimes causing serious bodily harm or death to another person, or involving the use of a deadly weapon. This includes crimes such as murder, assault, kidnapping, aggravated robbery, and certain sexual offenses and human trafficking.

The measure also applies to individuals with any prior felony conviction when they are charged with any type of crime, including felonies, misdemeanors, petty offenses, and traffic violations.

In all cases, the measure applies when the individual is charged with a crime, before any legal process has determined whether they committed the offense. At this time, state and local authorities do not track or publish data on how many unlawfully present individuals are charged with crimes of violence or have prior felony convictions.

What is current law related to communication with federal immigration authorities?

Colorado law limits state and local participation in federal immigration enforcement. Among other restrictions, state and local government agencies are prohibited from sharing certain nonpublic personal information with federal immigration authorities, unless directed by federal law, a court order, or a judicial warrant. However, neither federal nor state law require law enforcement agencies to notify federal immigration authorities when unlawfully present individuals are charged with crimes.

What authority do local governments have to engage with federal immigration authorities?

Unless prohibited by state law, local governments have the authority to determine their level of cooperation and communication with federal immigration authorities. For example, the City and County of Denver expanded upon state law by prohibiting federal immigration authorities from accessing city-controlled property like courthouses. Conversely, El Paso County requires officers to notify federal immigration authorities if they suspect that an individual in their custody does not have legal status.

Arguments For Initiative 95

- 1) Individuals residing in the U.S. unlawfully should not be allowed to stay in the country after committing violent or repeat crimes. The measure increases communication with, and enhances coordination between, Colorado law enforcement and federal immigration authorities in order to remove individuals who pose a threat to public safety, without targeting those who are otherwise law-abiding and contribute positively to society.
- 2) The measure creates a uniform statewide standard for cooperation with federal immigration authorities. Consistent requirements across jurisdictions improve enforcement and reduce variation among local policies, thus improving public safety and allowing the criminal justice system to work efficiently and effectively in removing criminals from the country.

Arguments Against Initiative 95

- 1) The measure undermines the constitutional right to due process and the presumption of innocence by requiring local law enforcement to notify federal immigration authorities before a court determines whether an individual committed the crime. Criminal charges are allegations, not findings of guilt, and individuals should not face potentially life-altering immigration consequences before receiving a fair trial.
- 2) The measure erodes trust between law enforcement and their communities. By failing to define key terms such as "reasonable effort" or "lawful presence," enforcement is left up to the discretion of individual officers, who may rely on subjective characteristics such as

1 language spoken. This breakdown in trust will deter some individuals from reporting crimes
2 or seeking assistance for fear of immigration enforcement.

3 Information about the organizations supporting and opposing this measure is
4 available on the Colorado Secretary of State's website:

5 www.coloradosos.gov/pubs/elections/Initiatives/ballot/contacts/2026.html

6 **Fiscal Impact of Initiative 95**

7 The fiscal impact will be included in the second draft.