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Representative Daniel Cahill, Co-Chair
State House, Room 527A
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Senator Cindy F. Friedman, Co-Chair
State House, Room 313
Boston, Massachusetts 02133

Representative Andres X. Vargas
State House, Room 26
Boston, Massachusetts 02133

Senator Pavel M. Payano
State House, Room 413-B
Boston, Massachusetts 02133

Representative Marcus S. Vaughn
State House, Room 473B
Boston, Massachusetts 02133

Senator Ryan C. Fattman
State House, Room 213-A
Boston, Massachusetts 02133

June 18, 2026

Re: PROTECT Act (H.5316/S.3086)

Dear Conference Committee,

I write as President of the Boston Bar Association (BBA), a volunteer organization of 15,000 members drawn from private practice, corporations, government agencies, legal-aid organizations, the courts, and law schools. Our mission is to advance the highest standards of excellence for the legal profession, facilitate access to justice, serve the community at large, and promote diversity, equity, and inclusion in the legal profession.

I am respectfully offering the BBA's views on three elements of the PROTECT Act—"I-9 audits," the sanctity of courthouses, and protections for detainees—but first I wish to express our deep appreciation to both houses of the Legislature for passing this important omnibus legislation.

These moves send a strong signal of government support for immigrant communities in Massachusetts at a time when they are especially vulnerable and, in many cases, afraid—afraid to show up in court to pursue justice, afraid to send their children to schools, afraid to commute to their jobs, and afraid even while at work.

The BBA has spoken frequently on immigration policy in recent years and in 2018 published a set of [Principles Concerning Immigration and Related Issues](#). These Principles continue to guide our positions on immigration. As we said then, and as we continue to believe,

The BBA recognizes the central—indeed, indispensable—role immigrants play in our city and state. It is in significant measure because of Massachusetts' openness to immigrants that our educational, business, and health-care institutions are recognized as global leaders.

No person's rights or human dignity should be devalued on the basis of immigration or citizenship status. All human beings have these fundamental rights, regardless of how they entered the United States.

Immigrants, like all other residents of the Commonwealth, must be free to access courthouses, law-enforcement agencies, and other governmental agencies without fear that doing so will lead to immigration detention or deportation.

We look forward to the enactment of final legislation to be recommended by your committee, which will not only reinforce the message that the Commonwealth welcomes, values, and supports immigrants but will also secure tangible statutory protections for them, even as the federal government has taken steps in the opposite direction.

To cite one example, the BBA was thrilled that both H. 5316 (Section 4) and S. 3086 (Section 8) include a measure to **require notification to workers when an employer learns that federal immigration officials intend to conduct an inspection**—also known as an I-9 audit. We have seen, even in Massachusetts, that such efforts—which may, in some instances like the incident at an Allston car wash last fall, be better described as raids—too often sweep up individuals who are duly authorized to work here but may simply not have the right paperwork on their persons at the very moment that agents arrive on-site.

This language merely expands to employees the same notice requirement, regarding pending investigations, that federal rules already extend to their employers. This narrowly tailored, common-sense change is especially important in response to a shift in federal enforcement practices from use of I-9 audits as a compliance-verification tool to an aggressive approach aimed at detention and data-mining—leaving in its wake employee mistrust and damaged reputations, as well as wrongful detentions. It has become even more critical given updated guidance from U.S. Immigration and Customs Enforcement (ICE) in March that reclassifies numerous errors that had historically been addressed as correctable technical violations, treating them instead as substantive violations subject to monetary penalties—a change that may significantly increase exposure to fines and enforcement risk for routine Form I-9 compliance errors.

Enactment of this simple notification provision will protect employees and employers alike, and the broader community, by helping to ensure that properly authorized workers in Massachusetts have the information they need to prepare by gathering in advance all relevant documents.

Next, we applaud both houses for **recognizing courthouses as sensitive locations that should not become staging grounds for warrantless civil arrests**. The wheels of justice cannot properly turn if defendants, victims, and witnesses are subject to being snatched and secreted away by immigration enforcement when they appear in court. Defendants have been detained in court mid-trial, leaving cases in limbo and victims with no opportunity to see justice done on their behalfs. The cost in terms of witnesses refusing to show up in court out of fear of civil immigration arrest is unknown but no less real.

I respectfully suggest that the conference committee adopt the language of S. 3086 (Section 12), as it includes what is known as the curtilage surrounding the courthouses themselves, as determined

by the Trial Court. This is important for two reasons: First, as a practical matter, courthouse users would not be fully protected without this inclusion, because federal agents would be free to more or less set up right outside every courthouse door and arrest individuals as they enter or exit.

Second, the enactment of a provision that does not apply to areas around the courthouse could be read to undermine the centuries-old privilege against civil arrest under Massachusetts law, which protects those attending Massachusetts court on official business from civil arrest both in court and while traveling to and from the court. Justice Cypher of the Supreme Judicial Court concluded, in a Single Justice opinion, that this longstanding Massachusetts privilege applies to civil arrests by the federal government. That opinion is consistent with a long line of Supreme Judicial Court decisions holding that the privilege applies to all civil arrests.

The BBA believes that both S. 3086 and H. 5316 should be read to supplement, not displace, the existing privilege. This privilege exists both to respect the dignity, decorum, and authority of the courts—representing an equal branch of government, alongside the executive—and to avoid deterring people from attending court proceedings. But there is a risk that the federal government might read H. 5316, if enacted, to strip those appearing in Massachusetts court from what the BBA strongly believes is their existing privilege against civil courthouse arrests by the federal government while traveling to and from the court. (It is important to emphasize here that both the common-law privilege and this legislation would apply only to civil, rather than criminal, arrests.)

Finally, **I urge the committee to adopt Section 2 of the H. 5316**, which would strengthen **protections for individuals detained in state and local facilities**. These provisions would educate detainees on their right to counsel and how to obtain legal representation, as well as the right to remain silent. They also require covered facilities to offer confidential, unmonitored attorney-client telephone communications. And Section 2 further requires that information on a detainee's updated whereabouts be made available to counsel. Such language would buttress critical constitutional rights and promote access to justice and the administration of justice.

Thank you for your consideration of these discrete recommendations—and for your work on this bill as a whole. The BBA stands ready to assist with your work in these areas.

Sincerely,



Suma V. Nair
BBA President

cc: House Speaker Ronald Mariano
Senate President Karen Spilka
Co-Chair Michael Day, Joint Committee on the Judiciary
Co-Chair Lydia Edwards, Joint Committee on the Judiciary