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MICHAEL B. SHEEDY
EXECUTIVE DIRECTOR

February 8, 2019

The Honorable Joe Gruters
Room 324, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1300

RE: SB 168 creates unnecessary, unfunded mandate that undermines local law enforcement

Dear Chairman Gruters:

We share the concern that our immigration system is flawed and must be reformed. However, we oppose SB 168 due to the concerns outlined below.

Bill violates subsidiarity and creates serious liabilities for local jurisdictions
At the core of the proposal is a *mandate* that local jurisdictions comply with federal immigration detainers, which are technically *requests* to hold individuals for 48 business hours beyond the time they would otherwise be released from a law enforcement agency. Honoring detainer requests is, and should remain, discretionary. Consider that:

- **Erroneous detainers are issued with some frequency against non-deportable lawful immigrants and U.S. citizens.** It is notable that "probable cause" for an immigration detainer is not comparable to "probable cause" for warrants and criminal detainers as the only standard is a United States Immigration and Customs Enforcement (ICE) officer's belief that the detainee is a removable alien. One recent Florida case is that of U.S.-born citizen Peter Sean Brown who was detained for three weeks and whose lawsuit is pending against the detaining sheriff.

- **This is a highly costly and unfunded expansion of a federal program.** A staff analysis of a similar proposal last session acknowledged that Miami-Dade County spent close to $1.7M in such efforts in 2011 and 2012. While the bill proposes two funding mechanisms, their ultimate effectiveness is extremely dubious at best.

  As to the first, petitioning the government for reimbursement stands little chance of success given that historically, the federal government has not reimbursed the incurred costs of detention (to local governments). With the second option, expecting persons to fund their own detention seems unreasonable as well as unprecedented. Finally, the costs of compensating an illegally-detained individual through a likely successful civil suit for a detainer issued in error is nowhere contemplated in the bill.

- **The bill makes local jurisdictions vulnerable to significantly increased liability.** Case law, such as in *Galarza v. Szalczyk* and *Miranda-Olivares v. Clackamas County,* has established compliance with such detainers does not shield county jails from the liability of detaining individuals without a warrant or deportation order.

Problematic terminology obscures present reality; bill is completely unnecessary
Beyond the specific policy concerns noted above, the proposal utilizes problematic terminology.

- **"Sanctuary policy":** The term "sanctuary" in this context is a misnomer that is often confused with the notion that immigrants in these communities are insulated from immigration enforcement action or criminal prosecution. In fact, nothing in current Florida policy prevents either. Immigration laws and criminal law enforcement are in full effect.

  SB 168 defines a sanctuary policy as one that contravenes 8 U.S. Code § 1373, which *already* establishes that state or local government entities or officials may not prohibit or restrict any other government entity or officials from sharing information with the Immigration and Naturalization Service (INS) regarding any individual's immigration status. By all accounts, no Florida jurisdictions are in violation of this federal law.

- **"Rule of Adherence":** Citing this bill as the "Rule of Law Adherence Act" suggests that Florida jurisdictions are not in adherence to the law. This is simply not the case as noted above. "Rule of Adherence" would also seem to suggest that this bill would somehow curb a larger immigration crisis in our country and state. Again, this is simply not the case. First, it should be noted that unlawful presence is not a crime in and of itself – it is a civil violation. Second, the federal government – not state and local police - has sole authority to enforce border and immigration laws.[i]

Bill likely diminishes, rather than enhances, public safety

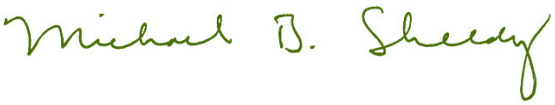
Law enforcement agencies nationwide stress the value of separating local policing activities from immigration enforcement. Local enforcement of federal immigration laws does not prevent crime but rather undermines public safety efforts by eroding community trust. It has led to lower crime reporting by immigrants and less sharing of information between their communities and local police.[ii]

Commentary on new County Sheriffs' partnerships with ICE

We acknowledge that many Florida Sheriffs have signed Basic Ordering Agreements with ICE. While we still have constitutional and funding concerns with those agreements, we observe that additional documents such as orders to detain and warrants for arrest or warrants of removal are provided to the law enforcement agency, in addition to detainer requests. Also, the decision to enter into these agreements – accepting any subsequent liabilities – were made at the local level and not imposed by the state.

In summary, we urge legislators to oppose SB 168. In its place, we encourage Congress to undertake more comprehensive immigration reform efforts to enhance lawful pathways for immigration, which has long been a priority of the bishops.

Sincerely,



Michael B. Sheedy

cc: Most Rev. Thomas G. Wenski, Archbishop of Miami and FCCB President
Most Rev. Frank J. Dewane, Bishop of Venice & FCCB Justice & Peace Moderator
Ingrid M. Delgado, Associate for Social Concerns/Respect Life

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[i] *United States v. Arizona* (2012)

[ii] Theodore, Nik. (2013). *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*. Retrieved from https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure_Communities_Report_FINAL.pdf.