



May 30, 2019

DELIVERED VIA EMAIL

The Honorable Ron DeSantis
Office of Governor
State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis:

We write to urge you to veto the anti-immigrant, unconstitutional, inhumane, and un-American SB 168. If enacted, SB 168 will conscript local law enforcement to carry out the work of ICE agents at taxpayer expense, instill fear in immigrant communities, force local law enforcement to violate the constitutional rights of individuals they are sworn to protect, separate hard-working immigrant parents from their children, and make it less likely for immigrants to report crimes.

SB 168 forces all local law enforcement agencies in Florida to expend their scarce resources to go beyond what is currently required by federal law and blindly carry out unlawful and unreliable ICE detainer requests, without any judicial determination of probable cause to believe that a crime has been committed. Additionally, this bill forces state and local entities, and local law enforcement, to enforce federal immigration law, regardless of community priorities, local resources, or constitutional limitations. Despite rhetoric that this bill only applies to “bad criminals,” passage of this bill will result in family separation and deportation of immigrant parents and family members who have never been convicted of a crime, let alone a violent crime. Forced separation of parents from their children is un-American and does not make communities safer.

SB 168 prohibits all localities in the state from adopting policies or procedures that limit entanglement with federal immigration enforcement – even if such policies or procedures reflect the values of local residents. It also requires each and every Florida county and municipality to expend maximum local resources to enforce federal immigration law. Specifically, this bill provides that no state entity, law enforcement agency, local government entity, or state university, may adopt or have in effect a “sanctuary policy.” Sanctuary policy is defined broadly and vaguely in the bill to include any “law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity” which limits or interferes with law enforcement carrying out federal immigration enforcement, including participation with any agreement or program under section 287 of the Immigration and Nationality Act (“a 287(g) agreement”).

Additionally, this bill imposes an affirmative obligation on every law enforcement agency (including campus police) to use “best efforts to support the enforcement of federal immigration law.” (Section 908.104(1)) The term “best efforts” is vague and undefined, and the bill does not provide any guidance as to what it means to use “best efforts” to “support” immigration enforcement.

Moreover, the bill does not provide any funding or reimbursement for the resources utilized to ensure law enforcement uses its “best efforts” to implement federal immigration law. The provision providing for Basic Ordering Agreements or similar agreements creates a perverse economic incentive for jails to detain immigrants where there is no judicial determination of probable cause to believe they committed a crime.

Finally, the bill forces local officials to implement every single federal immigration detainer request they receive. There are no exceptions, even if the officer doubts probable cause, or the person presents proof of citizenship, or the person is a crime victim or witness, or the jail is already full.

Despite rhetoric that this bill defines and bans “sanctuary cities,” it is important to note that nowhere in this bill is the term “sanctuary city” mentioned, let alone defined. Moreover, Florida does not have any true “sanctuary cities” that categorically refuse all cooperation with immigration requests from the federal government. Instead, some counties have opted not to implement warrantless Immigration and Custom Enforcement (ICE) detainer requests because of constitutional concerns, litigation exposure and costs, and because they undermine trust and cooperation with law enforcement. If SB 168 becomes law, it would expose virtually every government entity in Florida to potential liability for constitutional violations, divert a huge amount of local law enforcement resources away from actually keeping our communities safe, and cost taxpayers millions of dollars, without any federal reimbursement of costs.

Additionally, supporters of this bill disingenuously claim that it is needed to ensure that Florida officials follow “the rule of law.” However, Florida officials are already following the rule of law. This bill goes beyond what is required by current law and actually forces Florida officials to act in violation of current law and the Constitution. The Rule of Law is a principle of governance under which all persons, institutions, and entities, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and are consistent with international human rights principles. It requires equality before the law and fairness in the application of the law, adherence to the separation of powers, due process, equal protection, and avoidance of arbitrariness and procedural and legal transparency.

The rule of law requires the separation of powers that distinguishes judicial trial from executive punishment and an understanding of liberty as security from extrajudicial punishment. SB 168 disregards the rule of law by encroaching on individual liberty, violating due process and equal protection, and detaining individuals without a judicial determination of probable cause. This legislation represents an unprecedented expansion of the executive branch in our communities. SB 168 is a reckless expansion of government intrusion in our daily lives and an affront to our democracy and to the values we all share.

For all these reasons and more, we urge you to veto this bill. Thank you for your attention to the above and please let us know if you have any questions or would like any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Micah W. Kubic". The signature is fluid and cursive, with a long horizontal stroke at the end.

Micah W. Kubic, Ph.D.
ACLU of Florida, Executive Director

A handwritten signature in blue ink, appearing to read "Maria Rodriguez". The signature is cursive and somewhat stylized.

Maria Rodriguez
Florida Immigrant Coalition, Executive Director