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## **ACLU OF RI POSITION: OPPOSE**

### **TESTIMONY 25-H 5663, RELATING TO CORRECTIONAL INSTITUTIONS – INTERSTATE DETAINERS April 10, 2025**

The ACLU of Rhode Island strongly opposes this legislation, which would require all state law enforcement agencies to honor federal detainer requests, as the proposal is unconstitutional.

A “detainer” as issued by the Department of Homeland Security’s Immigration and Customs Enforcement (ICE) is a written request that local law enforcement detain an individual for an additional 48 hours after he/she would otherwise be released. ICE uses detainers to provide itself additional time to examine an individual’s immigration status, decide whether to take the individual into custody, and/or facilitate transfer into federal custody.

These detainers are typically issued without a judicial warrant supported by probable cause. As a consequence, once the basis for criminal detention has lapsed, the State’s continued detention of an individual based solely on an ICE request violates the Fourth Amendment’s bar on unlawful seizures.

A local law enforcement agency’s cooperation with ICE can lead to legal exposure. In 2014, our cooperating attorneys successfully sued on behalf of a Providence resident who was illegally held at the ACI by Department of Corrections officials pursuant to an unlawful ICE detainer. Discovery in that litigation revealed the minimal standards used by ICE bureaucrats in issuing detainers, as evidenced by the fact that the Providence resident was actually a U.S. citizen. The court ruled in that case that the state’s practice of holding individuals based solely on an ICE detainer was unconstitutional. *Morales v. Chadbourne*, 235 F.Supp.3d 388 (D.R.I. 2017). The DOC has since revised its practice, which this bill would overturn. In doing so, it would run afoul of that court decision.

Given the fundamental Fourth Amendment rights at stake, we strongly urge the committee to oppose this legislation.