



## **POSITION ON PROPOSED LEGISLATION**

**BILL:** SB 332 – Correctional Facilities – Individual Subject to Immigration Detainer – Homeland Security Notification

**POSITION:** OPPOSE

**DATE:** January 30, 2020

This bill would require expenditure of local and state fiscal and personnel resources to enforce federal law, without reimbursement, and would subject local jurisdictions and possibly the state to monetary damages liability in lawsuits by detained individuals. Courts have awarded money damages to individuals held by a local jail for ICE without a judge-signed order. An immigration detainer is not a judge-signed order. It is a request from an administrative agency. A state law saying that the facility “may” or “shall” maintain custody of the person to await ICE will not prevent such civil liability.

An immigration detainer does not have the legal authority of a federal or state detainer that is issued as a result of criminal process by a judge. Immigration detainers are issued by ICE agents – essentially a police officer. ICE sometimes issues a paper with the label “warrant” at the top. It is not a judicial warrant. It is signed by an ICE agent. Putting the word “warrant” on the top does not give it more legal authority.

Participation by local officials in ICE enforcement activities undermines law enforcement’s efforts to build community trust and results in community members not cooperating with law enforcement.