



Opposition to HB63 Citizen Protection Act of 2017

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The ACLU of North Carolina opposes HB 63, as it raises both constitutional and practical concerns as drafted.

Section 3(a) creates a rebuttable presumption against bond for undocumented immigrants when US immigration or Customs enforcement has issued a detainer against the person or has “indicated they will do so” – a practice that violates the Fourth Amendment.

- These requests to hold people in jail when ICE has issued a retainer are made absent a judicial determination of probable cause and in recent years, numerous federal courts have agreed this system of detention by local law enforcement agencies violate the Fourth Amendment of the Constitution.
- This practice is not only a violation of the Fourth Amendment but also exposes local law enforcement agencies to considerable liability. Multiple federal courts across the country have found local governments fiscally liable for choosing to honor ICE requests without a judicial determination of probable cause.
- Recently, the Sheriff of Maricopa County, Arizona and the elected County Attorney, citing the potential for litigation, issued [a policy that Maricopa County jails will no longer hold individuals with an ICE detainer](#) or facilitate transfer to ICE.

HB63 is an invitation to racial profiling and pretextual stops targeting individuals perceived to be foreign born.

- Section 4(a) (proposed NCGS 64-8) allows law enforcement to transport an undocumented immigrant to a federal facility once his or her immigration status has been verified. There is no requirement that the law enforcement agency have a valid state law basis for detaining the individual. Further, as written, the proposal does not prohibit law enforcement from prolonging the detention for the sole purpose of verifying immigration status.

HB63 undermines the relationships local law enforcement has built with communities.

- Sections 4(b) and 4(c) requires withholding tax funding from so-called “Sanctuary Cities”. Local law enforcement agencies understand how important it is for victims of and witnesses of crime to come forward. Withholding funds to local jurisdictions unless they act as immigration officers

undermines the relationships law enforcement has built within their community, making it *less* safe for everyone.

- In addition, these enforcement provisions raise many practical problems. They are also costly, unworkable, and unclear. How will counties or cities be found “in violation”? Who reports and who investigates? If duties are added to the Attorney General’s office, what additional funding will be provided for that work?

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