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BILL NUMBER: HB 2771

PROPONENT, OPPONENT, or NEUTRAL: Opponent

ORAL or WRITTEN ONLY TESTIMONY: Written Only Testimony

DATE OF HEARING: February 25, 2025

Chair Kessler and Members of the Committee,

Thank you for allowing me to share my opponent testimony against HB 2771, which would mandate local law enforcement cooperation with federal immigration authorities. My name is Marcel Harmon, and I am a voter in Douglas County. I am writing today to encourage the committee to vote no on HB 2771. While proponents frame this as a public safety measure, evidence from across the country demonstrates that this bill would expose Kansas counties to significant constitutional liability, impose substantial financial burdens on local taxpayers, undermine democratic accountability, and violate fundamental civil rights. My testimony is divided into (3) sections, followed by references.

Sheriffs Signing 287(g) Agreements Without County Oversight Undermines Democratic Accountability

One of the most troubling provisions of HB 2771, as I understand it, allows sheriffs to unilaterally sign 287(g) agreements with ICE without approval from county commissioners or review by the Kansas Attorney General. This provision strips elected county officials – who control budgets and represent constituents – of any say over agreements that will obligate county resources, impact the civil rights of constituents, and expose counties to legal liability.

Why This Matters:

Local oversight exists for good reason. Traditionally, interlocal agreements require county commission approval precisely because they commit public funds, create ongoing obligations, and can expose counties to lawsuits. By exempting 287(g) agreements from this process, HB 2771 concentrates power in a single elected official while eliminating checks and balances.

Other jurisdictions have recognized this problem. Recent controversies demonstrate why oversight matters. In Kenosha County, Wisconsin, the sheriff signed a 287(g) agreement secretly, reversing a public stance without any announcement, leading to accusations of political gamesmanship and public outcry. The lack of transparency and accountability damaged public trust.

Research shows 287(g) partnerships are often driven by political ideology rather than public safety. An ACLU comprehensive review of 142 local 287(g) agencies found that at least 59% of participating sheriffs have records of anti-immigrant rhetoric, 55% have advocated inhumane policies, and 65% have records of racial profiling and civil rights violations. Allowing sheriffs to bypass local oversight removes the community's ability to scrutinize these partnerships.

ICE Detainers Violate Constitutional Rights and Expose Counties to Costly Litigation

HB 2771's authorization for sheriffs to detain individuals for up to 48 hours on ICE detainers creates serious Fourth Amendment problems. Federal courts have consistently ruled that complying with ICE detainers without judicial warrants violates the Constitution.

Key Court Rulings:

Miranda-Olivares v. Clackamas County (2014): The U.S. District Court for Oregon held that detaining someone based solely on an ICE detainer—without probable cause or a judicial warrant—violates the Fourth Amendment. The court found that "there is no genuine dispute of material fact that the County maintains a custom or practice in violation of the Fourth Amendment". Clackamas County settled for \$30,100.

Galarza v. Szalczyk (2014): The Third Circuit Court of Appeals ruled that ICE detainers are "merely non-binding requests, not orders," and that counties can be held liable for detaining people based on them. After the ruling, Lehigh County, Pennsylvania settled for \$95,000 in damages and attorney's fees and changed its policy to stop honoring ICE detainers without court orders.

Morales v. Chadbourne (2015): The First Circuit affirmed that "it was clearly established in 2009 that ICE detainers cause seizures that must comply with the Fourth Amendment".

The Financial Cost of Violations:

Multiple jurisdictions have paid substantial settlements for unlawful ICE detentions:

- New York City: \$145,000
- Salt Lake County: \$75,000 plus policy changes
- Los Angeles County: \$255,000 (one plaintiff)
- San Juan County, NM: \$300,000 plus additional amounts to named plaintiffs
- Maricopa County, AZ: \$43 million in litigation fees due to lawsuits related to its 287(g) program
- Multiple other settlements ranging from \$25,000 to \$50,000

Kansas counties would face similar liability under HB 2771, as the bill's provisions mirror the unconstitutional practices struck down in these cases.

The Financial Burden on Kansas Taxpayers Would Be Substantial

While HB 2771 requires the state to cover certain legal costs and judgments, the actual costs of immigration enforcement fall almost entirely on local governments, and ultimately Kansas taxpayers.

Direct Costs to Counties:

Detention costs: ICE typically does not reimburse counties for holding individuals on detainers. Research shows that people held on ICE detainers remain in jail significantly longer than other detainees:

- California: 20.6 days longer on average
- Colorado: 22 days longer
- North Carolina: average of 69 days

At an average daily cost of \$71.44 per detainee, extended detention creates substantial expenses. North Carolina counties paid roughly \$7.4 million annually for detainers, with cumulative costs over a decade reaching \$81.7 million.

287(g) Program Costs Are Even Higher:

Counties with voluntary 287(g) agreements have documented massive costs:

- Mecklenburg County, NC: \$5.5 million in first-year startup costs

- Alamance County, NC: \$4.8 million per program year
- Gwinnett County, GA: \$3.7 million per year over eight years (5% of the sheriff's total budget)
- Maricopa County, AZ: \$1.3 million budget deficit from 287(g)-related overtime in 2008
- Denver, CO: \$1.5 million annually—equivalent to the entire Family Violence Unit budget
- Prince William County, VA: \$25.9 million over five years, paid with cuts to police and fire departments

Federal grants are insufficient. In North Carolina, \$1.2 million in federal grants represented only one-third of total local costs. Counties bear costs for officer salaries, overtime, training travel, housing, per diems, and all detention expenses.

Indirect Economic Costs:

Research shows 287(g) jurisdictions experience economic harm from decreased immigrant populations. In North Carolina, Mecklenburg and Alamance Counties experienced sales tax and local business revenue reductions attributed to declining immigrant populations. A Center for American Progress analysis found that immigrant households in 40 localities with 287(g) agreements generated nearly \$66 billion in spending power and contributed \$24 billion in tax revenue.

Why Jurisdictions Are Terminating 287(g) Agreements:

Prince William County, Virginia ended its decade-long 287(g) agreement in 2020, citing budgetary impact and "debatable effectiveness." The police chief stated: "I have not seen any hard data where the 287 program is a direct cause of any measurable crime reduction".

Tulsa County, Oklahoma terminated its agreement within one month of renewal in 2020, with a spokeswoman stating: "Financially, it just made sense to go ahead, end the contract, put those employees back into other positions".

Harris County, Texas terminated its agreement in 2017, redirecting the \$675,000 cost toward improving clearance rates for major crimes.

Conclusion

HB 2771 would impose a costly, constitutionally problematic mandate on Kansas counties with minimal public safety benefit (even decreasing it). The evidence is clear:

- *Democratic accountability*: Allowing sheriffs to bypass county oversight concentrates power dangerously and removes community input on expensive, controversial agreements.
- *Constitutional violations*: Federal courts have repeatedly found that ICE detentions without judicial warrants violate the Fourth Amendment, exposing counties to substantial lawsuit judgments.
- *Financial burden*: Kansas counties would face millions in detention costs, overtime expenses, legal fees, and potential settlements – money diverted from actual public safety priorities like investigating serious crimes.

Once again, I thank you all for reviewing my thoughts on this bill, and I encourage you all to vote no on the passage of HB 2136 out of committee to preserve local control, fiscal responsibility, and constitutional protections for all Kansans. References are below.

Sincerely,

Marcel Harmon,

Lawrence, KS

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