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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE - IMMIGRATION DETAINEES

Introduced By: Representatives Maldonado, Diaz, Regunberg, Knight, and Barros

Date Introduced: February 15, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Declarations:

2 (1) From the times of Rhode Island's first undocumented immigrant and refugee, Roger  
3 Williams, to the present, Rhode Island has a long and strong tradition of embracing and valuing  
4 diversity and respecting the civil and human rights of all residents regardless of their race,  
5 ethnicity, national origin, immigration status, gender or sexual orientation; and

6 (2) In the absence of federal comprehensive immigration reform and a pathway to  
7 citizenship, Rhode Island must help to foster an environment that promotes meaningful cultural,  
8 economic, community, and civic participation by immigrants who might otherwise be at risk of  
9 removal and separation from their families and ensure that immigrant families have access to  
10 quality services such as healthcare and education; and

11 (3) There still exist gross human rights violations and severe economic conditions in  
12 many of the home countries of immigrants in Rhode Island, which have forced millions to leave  
13 their countries to protect and provide for their families; and

14 (4) Enforcement of immigration laws by police officers in Rhode Island will discourage  
15 immigrant residents from reporting crimes and suspicious activity and cooperating with criminal  
16 investigations; and

17 (5) Rhode Island is opposed to racial profiling, and granting local police officers the  
18 authority to enforce immigration laws may lead to racial profiling; and

19 (6) As a matter of public safety, the protection of an individual's citizenship and

1 immigrant status will engender trust and cooperation between law enforcement officials and  
2 immigrant communities to aid in crime prevention and solving, and will discourage the threat of  
3 immigrant and racial profiling and harassment; and

4 (7) Most immigrants in Rhode Island are law abiding residents and are themselves often  
5 the victims of crime; and

6 (8) Rhode Island believes that there is no inherent conflict between national security and  
7 the preservation of liberty and that government can protect public safety without impairing civil  
8 rights and liberties; and

9 (9) Police chiefs from Rhode Island and across the country oppose attempts to turn local  
10 police departments into federal immigration agents because it breaks down trust in the immigrant  
11 community and decreases witness cooperation and the reporting of crime.

12 SECTION 2. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is  
13 hereby amended by adding thereto the following chapter:

14 CHAPTER 33

15 FEDERAL IMMIGRATION DETAINEES

16 **12-33-1. Definitions.**

17 As used in this chapter:

18 (1) "Civil immigration detainer" means a request, including one using federal form 1-247,  
19 issued by a federal immigration officer authorized under Section 287.7 of Title 8 of the Code of  
20 Federal Regulations or by any other authorized federal immigration officer to a local law  
21 enforcement official to, among other things, maintain custody of a person once that person is  
22 released from local custody.

23 (2) "Released from local custody" means that a person may be released from the custody  
24 of a Rhode Island law enforcement agency because any of the following conditions has occurred:

25 (i) All criminal charges against the person have been dropped or dismissed;

26 (ii) The person has been acquitted of all criminal charges filed against them;

27 (iii) The person has served the time required for their sentence;

28 (iv) The person has posted a bail or bond, or has been released on their own  
29 recognizance;

30 (v) The person has been referred to pre-trial diversion services;

31 (vi) The person has been sentenced to an alternative to incarceration, including a  
32 rehabilitation facility;

33 (vii) The person is otherwise eligible for release under state or local law.

34 (3) "Administrative warrant" means a warrant, notice to appear, removal order, or warrant

1 of deportation, issued by an agent of a federal agency charged with the enforcement of  
2 immigration laws or the security of the borders, including Immigration and Customs Enforcement  
3 and Customs and Border Protection. An administrative warrant is not one issued by a judicial  
4 officer.

5 (4) "Citizenship or immigration status" means all matters regarding questions of  
6 citizenship of the United States or any other country, the authority to reside in or otherwise be  
7 present in the United States, the time or manner of a person's entry into the United States, or  
8 another civil immigration matter enforced by the Department of Homeland Security or other  
9 federal agency charged with the enforcement of civil immigration laws.

10 (5) "ICE" means the United States Immigration and Customs Enforcement Agency, and  
11 includes the former Immigration and Naturalization Service, Customs and Border Protection, and  
12 any successor agency charged with the enforcement of civil immigration laws.

13 (6) "Inmate" means anyone in the custody of a Rhode Island law enforcement agency as  
14 defined in this section, and does not include individuals in the custody of Immigration and  
15 Customs Enforcement.

16 (7) "Rhode Island law enforcement agency" means police departments of political  
17 subdivisions of the state, division of sheriffs', Rhode Island state police, the Rhode Island  
18 department of corrections, and the Rhode Island probation departments, college and university  
19 campus police, and any other entity in Rhode Island (other than federal agencies) that are charged  
20 with the enforcement of laws, the operation of jails or prisons, or the custody of detained persons.

21 **12-33-2. Standards for Responding to Immigration Detainers.**

22 (a) No officer or employee of a Rhode Island law enforcement agency may arrest or  
23 detain a person solely on the basis of a civil immigration detainer or an administrative warrant.

24 (b) No officer or employee of a Rhode Island law enforcement agency may continue to  
25 detain a person solely on the basis of a civil immigration detainer or an administrative warrant  
26 once that individual has been released from local custody.

27 (c) No inmate subject to a civil immigration detainer or administrative warrant shall be  
28 denied bail solely on the basis of that detainer or administrative warrant.

29 (d) Rhode Island law enforcement agencies shall not allow ICE agents to use their  
30 facilities for investigative interviews or other purposes, and shall not allow ICE agents access to  
31 inmates either in person or via telephone or videoconference.

32 (e) If any inmate is subject to a civil immigration detainer or an administrative warrant,  
33 the Rhode Island law enforcement agency having custody of the inmate shall provide them with a  
34 copy of the civil immigration detainer or administrative warrant, and any other documentation

1 pertaining to their case that is presented to the Rhode Island law enforcement agency by federal  
2 immigration authorities.

3 (f) No Rhode Island law enforcement agency shall provide or allow ICE access to  
4 booking lists or information regarding inmates' incarceration status or release dates. Law  
5 enforcement agencies shall not notify ICE about an inmate's release.

6 (g) Nothing in this section shall limit the exchange of information regarding citizenship  
7 or immigration status as permitted by federal law.

8 **12-33-3. Transfers of custody.**

9 (a) Law enforcement officials shall not transport inmates who are subject to a civil  
10 immigration detainer or administrative warrant into ICE custody. Inmates subject to a civil  
11 immigration detainer or administrative warrant may be transported to court hearings, community  
12 or rehabilitative programs or to other Rhode Island facilities.

13 (b) Nothing in this section shall be construed as limiting or changing the duties of law  
14 enforcement agencies regarding the transportation of individuals who have been placed formally  
15 in federal immigration custody.

16 (c) Nothing in this section shall be construed as limiting or changing the duties of sheriffs  
17 pursuant to §42-7.3-3.2.

18 **12-33-4. Data Collection.**

19 (a) All law enforcement agencies shall retain copies of civil immigration requests and  
20 administrative warrants received along with accompanying information, and record the following  
21 for any inmates subject to either: race, gender, place of birth, date and time of arrest, arrest  
22 charges, date and time of receipt of civil immigration detainer or administrative warrant; date and  
23 time that the person was taken into custody by federal immigration agents; immigration or  
24 criminal history known or marked on the civil immigration detainer form; whether the civil  
25 immigration detainer was accompanied by additional documentation regarding immigration status  
26 or proceedings, and; whether a copy of the forms were provided to the inmate.

27 (b) All law enforcement agencies that receive detainer requests shall report all  
28 information collected pursuant to this section quarterly to the attorney general's office. Such  
29 information, with the exception of criminal offender record information, as defined in §38-2-  
30 2(4)(D), shall be a public record.

31 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL PROCEDURE - IMMIGRATION DETAINEES

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1           This act would create standards for responding to immigration detainers and for law  
2 enforcement officials' transport of inmates who are the subject of immigration detainers or  
3 administrative warrants. It would also require the maintenance and reporting of data concerning  
4 immigration detainers, administrative warrants and inmates.

5           This act would take effect upon passage.

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