

Legislative Testimony

In **Opposition** to House Bill 2771
House Committee on Federal and State Affairs
February 25, 2026

In-Person Testimony

Chair Kessler and Members of the Committee,

My name is Logan DeMond, and I am the Director of Policy and Research at the American Civil Liberties Union of Kansas. The ACLU of Kansas is a nonprofit, nonpartisan organization with more than 35,000 supporters statewide that works to protect and strengthen the civil rights and liberties of all Kansans. On behalf of the ACLU of Kansas, I strongly oppose House Bill 2771, which expands county sheriffs' authority to detain individuals for civil immigration purposes, insulates law enforcement from accountability, and removes longstanding democratic oversight. The combined effects of this bill raise serious constitutional, fiscal, and structural concerns for Kansas and is part of a larger, coordinated legislative attack on immigrants and people of color.

Expanding Authority to Detain Without Criminal Charges

HB 2771 authorizes sheriffs to detain individuals for up to 48 hours solely based on a federal immigration detainer (ICE Form I-247A) or certain administrative warrants. These are civil immigration documents, not criminal warrants signed by a judge. Under the Fourth Amendment, detention must be supported by probable cause and, in most circumstances, judicial authorization. Immigration detainers are administrative requests issued by federal agents and are not reviewed by a judge. Expanding civil immigration detention power without judicial oversight undermines core constitutional protections against unlawful seizure. Such a change, which places county sheriffs and their deputies on the same footing as masked federal agents, will erode trust in local law enforcement.

Increased Risk of Wrongful Detention and Due Process Violations

The bill provides that individuals must be released if a detainer is insufficient, canceled, or if the person provides proof of citizenship or lawful status. While these provisions attempt to create procedural safeguards, they do not eliminate the fundamental risk. ICE detainers have historically contained errors, and as a result, U.S. citizens and lawful permanent residents have been mistakenly held. When detention occurs without criminal charges and without a judicial warrant, the risk of wrongful deprivation of liberty increases significantly. Even a 48-hour hold can mean lost wages, lost housing, lost childcare, and profound disruption to a person's life. For someone wrongly detained, those consequences are not theoretical. They are immediate and

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severe. By embedding civil immigration detention into routine jail operations, the bill increases the likelihood of constitutional violations and exposes Kansas to federal civil rights litigation.

Statewide Assumption of Liability and Shielding from Financial Consequences

HB 2771 goes further than authorizing detention. It mandates that municipal insurance pools maintain coverage for agencies cooperating with ICE and requires the State of Kansas to pay federal civil judgments related to 287(g) participation when officers act in “good faith.” Ordinarily, when government actors violate constitutional rights, financial liability serves as an accountability mechanism. It encourages careful adherence to constitutional standards. This bill instead shifts the financial burden from local decision-makers to Kansas taxpayers statewide. By socializing the risk of constitutional violations, the bill reduces meaningful deterrence and creates an incentive structure where expanded enforcement carries limited fiscal consequence for the decision-makers implementing it. Kansas taxpayers should not be required to underwrite potentially unconstitutional detention practices.

Removal of County-Level Oversight

HB 2771 amends the Kansas Interlocal Cooperation Act to allow sheriffs to enter into 287(g) agreements without approval from county commissioners or compliance with standard interlocal procedures. Section 287(g) of the federal Immigration and Nationality Act authorizes local agencies to perform certain federal immigration functions pursuant to formal agreements with U.S. Immigration and Customs Enforcement. These agreements are significant policy commitments. They alter the scope of local law enforcement authority and impact entire communities. Removing county commission approval eliminates a critical democratic check. County commissioners are elected to oversee fiscal and policy decisions affecting their communities. HB 2771 concentrates that authority in a single office and limits transparency and public input. Major policy decisions, particularly those that carry fiscal risk and constitutional implications, should not bypass established oversight mechanisms.

Heightened Constitutional Litigation Risk

Taken together, the bill increases the likelihood of federal litigation under 42 U.S.C. § 1983, habeas corpus challenges, and constitutional claims under the Fourth and Fourteenth Amendments. The bill attempts to mitigate this risk through indemnification and mandated representation by the Kansas Attorney General; but providing legal defense does not eliminate constitutional scrutiny, nor does a statutory “good faith” standard override federal constitutional

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protections. This bill anticipates litigation by prematurely allocating responsibility for judgments. Rather than minimizing exposure to the risk of costly litigation, HB 2771 expands it while asking Kansas taxpayers to absorb the cost.

Conclusion

HB 2771 cannot be viewed in isolation. Across both chambers, harmful, targeted legislation has been introduced that would only serve to deepen administrative burdens and deepen the wounds immigrants continuously incur. This bill is no exception. Whether it is asking immigrants to identify themselves in a unique fashion on identification documents, unnecessarily compiling lists of immigrants receiving public assistance, or expanding the authority of law enforcement to identify and detain individuals who pose no threat to their communities, these relentless attacks must stop.

Public safety and constitutional governance are not mutually exclusive. Kansas can support law enforcement while still respecting constitutional boundaries and local democratic control. This bill not only disregards necessary checks on law enforcement's autonomy, but increases the likelihood of error, exposes Kansas to costly litigation, and disregards civil rights and the rule of law. For these reasons, on behalf of the ACLU of Kansas, I respectfully urge this committee to oppose HB 2771.

Logan DeMond
Director of Policy and Research