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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No: HB5663

ENTITLED, AN ACT RELATING TO CRIMINALS – CORRECTIONAL INSTITUTIONS – INTERSTATE DETAINERS

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender opposes HB5663, which would require all state law enforcement agencies, including the division of sheriffs and the department of corrections (RIDOC) to honor all detainer requests and other holds from DHS and ICE.

First, state law enforcement agencies are already required to honor detainer requests, under Code of Federal Regulations section 287.7, which mandates that agencies maintain custody of a person subject to a detainer for no more than 48 hours. C.F.R. § 287.7(d). The proposed bill, however, appears to expand this detention indefinitely by requiring agencies to hold individuals until Immigration and Customs Enforcement (ICE) assumes custody, without specifying a time limit. If enacted, this would conflict with federal regulations by effectively imposing indefinite incarceration on state agencies.

Second, and more importantly, a law requiring a person's indefinite detention based on an immigration detainer alone would likely be deemed unconstitutional. *See Morales v. Chadbourne*, 996 F.Supp.2d 19, 29 (D.R.I. 2014). Finally, even if the proposed legislation were necessary or constitutionally valid, the cost to the State of Rhode Island for such detention would be significant. According to a report from the Department of Corrections, the per-person cost of holding an individual at the intake service center in FY2024 exceeded \$230 per day. This financial burden would fall on state agencies, adding unnecessary strain to already limited resources.

We urge the Committee to reject this bill.

Sincerely,



Megan F. Jackson

Legislative Liaison

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