ACLU
Michigan

**House Committee on Military, Veterans, and Homeland Security**
**HB 4083, 4090- Welcoming/Sanctuary Cities**
**Position: Oppose**
**March 19, 2019**

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The ACLU of Michigan is opposed to HB 4083 and HB 4090 because they dismantle legal "welcoming cities" policies that promote positive relationships between law enforcement and the community.

We are pleased that the original language has been changed significantly in an attempt to eliminate the blatant constitutional problems; however, this legislation remains problematic overall.

It is important to dispel the false narratives around or "welcoming" cities, which are sometimes misrepresented as "illegal sanctuary" policies/cities. A substantial number of cities that have adopted these policies do not violate any federal law. Welcoming policies are not only permissible, they are sensible.

## I. Welcoming policies are permissible under federal law.

Federal immigration law, specifically 8 USC 1373, only prohibits local or state policies that limit the sending and receiving of immigration status information, it does *not* prohibit policies that limit communication or cooperation in any other form other than specifically sending information about a person's immigration status.

The federal provision is very limited in scope because it is long recognized that immigration enforcement is not and should not be the role of local governments and local law enforcement. That is why most local policies prohibit actions such as:

- officers asking victims or witnesses of crimes about their immigration status,
- police detaining people pursuant to an unconstitutional ICE detainer request,
- law enforcement using local resources, funds, and personnel to work with ICE or CBP on immigration enforcement matters, and
- miscellaneous policies to prevent discriminatory and unlawful conduct.

These types of local policies do not violate the provisions of federal immigration law, but would be unlawful under the legislation.

The cooperation and communication provisions of the legislation before this committee today are incredibly vague and many of these effective local policies could arguably be interpreted as limiting communication or cooperation. Without clear and unambiguous policies in place to regulate how law enforcement should interact and work with federal immigration enforcement agencies, law enforcement agencies may feel pressured into participating in immigration enforcement activities or going against their standard practices at the insistence of ICE to uphold a "cooperation" or "communication" requirement. Often unknown to law enforcement is that federal immigration enforcement officials do not always obtain the requisite warrants, court orders, or have the necessary probable cause to engage in actions like searches or detaining individuals. Unfortunately, this results in many local law enforcement agencies across the country defending themselves in court against federal claims after taking ICE at their word. As such, these bills invite racial profiling, unconstitutional detention, and the intertwining of limited local resources on federal issues.

## II. Welcoming policies are sensible.

Police are better equipped to do their jobs and the public is protected when all members of the community feel safe talking to law enforcement. HB 4083 and 4090 erode the trust between police and immigrant communities. It will cause those in need to only further hesitate about talking to police out of fear of

themselves or loved ones being detained or deported. Policies required in this legislation will undermine the trust between law enforcement and the communities they serve.

These bills strip local governments and law enforcement of their ability to determine and enforce policies and practices that are most effective to ensure the safety of their entire community. Under this legislation, a municipality that enforces or adopts a federally permissible welcoming policy may be sued by ANY resident of that community. Passing laws that disrupt the relationship between police and the communities they serve will only make us less safe

- A survey of over 2,000 Latinos in Chicago, Houston, Los Angeles and Phoenix revealed that 44% of Latinos are less likely to contact the police if they have been a victim of crime for fear that the police will use this interaction as an opportunity to ask about their immigration status.[1] 70% of undocumented Latinos report that they are less likely to contact police if they were victims of a crime.[2]
- Welcoming policies have a positive impact our communities. Studies show that crime rates are lower in counties with welcoming policies compared to those without. The Center for American Progress found that 35.5 fewer crimes were committed per 10,000 people in welcoming counties compared to non-welcoming counties.[3] On the other hand, studies show that cities with the type of polices being discussed here today have no effect on most types of crimes because immigrants maintain low crime rates even if they are faced with adverse social conditions such as low income or low levels of education.[4]
- Welcoming policies positively impact the economy. Over 7% of Michigan's workforce is comprised of immigrant workers.[5] Labor force participation rates are 2.5% higher, on average, in counties with welcoming city policies and unemployment rates are 1.1% lower.[6] Poverty is significantly lower and there is less reliance on public assistance in counties with welcoming policies.[7]
- Studies on economic impact of the immigrant community show that immigrants come with different skillsets that allow everyone to increase their productivity and incomes. On average, the median household income is $4,353 higher in jurisdictions with welcoming polices.[8]

## III. Legislation like those proposed comes at a great cost to our community.

Jurisdictions with immigration enforcement entanglement policies face the economic burden of the spending millions of dollars on implementation and litigation. Additionally, the backlash to these policies has a negative impact on tourism. In Arizona, backlash caused a $14 million loss in lodging cancellations and commercial revenue. The decrease in tourism led to losses of thousands of jobs, over $250 million in economic output, and $9.4 million in tax revenue.

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[1] Theodore, N. (2013). *Insecure communities: Latino perceptions of police involvement in immigration enforcement* (Rep.). University of Illinois at Chicago. Retrieved from https://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF.

[2] Theodore, supra n. 1.

[3] Wong, T. (2017, January 26). The effects of sanctuary policies on crime and the economy. Retrieved from https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy/.

[4] Wolgin, P., & Kelley, A. (2011, July). *Your state can't afford it: The fiscal impact of states' anti-immigrant legislation* (Rep.). Retrieved https://cdn.americanprogress.org/wp-content/uploads/issues/2011/07/pdf/state_immigration.pdf.

[5] American Immigration Council. (2015, January 1). New Americans in Michigan: the political and economic power of immigrants, Latinos, and Asians in the Great Lakes state. Retrieved from https://www.americanimmigrationcouncil.org/research/new-americans-michigan.

[6] Wong, supra n. 3.

[7] Wong, supra n. 3.

[8] Wong, supra n. 3.

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This legislation is unnecessary and based on inaccurate and incomplete information that perpetuates discrimination against the immigrant community. These bills are an overreach that go beyond the federal immigration laws and inappropriately regulate the day to day practices and policies of local governments. The deeper discriminatory message behind these bills is clear to everyone they impact. This message is evidenced through the vague language that invites the abuse of authority, all the while attacking the very policies designed to ensure that every resident of this state lives free of racial and ethnic profiling.

Respectfully submitted,

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