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Representative Kane supports bill authorizing MA courts to honor ICE detainers

Legislation will help keep dangerous criminals off the streets

BOSTON – State Representative Hannah Kane, R-Shrewsbury, is co-sponsoring legislation that would authorize Massachusetts courts to honor detainer requests from U.S. Immigration and Customs Enforcement (ICE) officials for individuals arrested for violent crimes who might otherwise be released from custody.

Senate Docket 3490, *An Act to enhance the authority of courts to protect public safety*, was filed on October 21 by the Massachusetts House and Senate Republican Caucuses to address a critical gap in current state laws by specifically allowing the courts to keep dangerous criminals who are considered removable aliens by ICE in custody for up to 12 hours if the individual is subject to an ICE detainer and is deemed to pose a threat to public safety. Representative Kane noted the bill focuses on those individuals who are convicted of serious crimes such as murder, rape, domestic violence, and narcotics or human trafficking

The filing of the bill comes after two recent media reports involving non-citizens who were subject to an ICE detainer but were not held by the courts. One case involved a 38-year-old Guatemalan national who was in the country illegally but was released by a Middlesex Superior Court judge after being arraigned on charges of aggravated rape of a child with force and attempted rape of a child by force. The second case involved another non-citizen from Guatemala who was convicted in Gloucester District Court for indecent assault and battery on a child under 14 and assault and battery.

According to Representative Kane, Senate Docket 3490 directly addresses a deficiency in state law highlighted by the Massachusetts Supreme Judicial Court (SJC) ruling in the 2017 case of *Lunn v. Commonwealth*. The SJC determined that current state law does not provide the authority for court officials to honor ICE detainer requests for individuals otherwise entitled to release, leaving it up to the Legislature to provide and define such authority.

Senate Docket 3490 would require Massachusetts judges to take into consideration any detention requests received from ICE when setting bail for an individual. If ICE provides a written request stating probable cause that the individual is a removable alien and is the subject of an arrest or removal/deportation warrant, the judge may withhold bail until ICE acts on the request.

Representative Kane noted that the bill would require any judge who denies an ICE detainer request to file a written explanation with the court clerk detailing why they denied the request. This written decision would be considered a public record, but the bill would allow for the redaction of the names of victims or minors.

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