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BY FAX OR E-MAIL

January 12, 2016

Representative Larry Metz
Chair
Justice Appropriations Subcommittee
222 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300

Re: CS for House Bill 9

Dear Representative Metz,

On behalf of the Anti-Defamation League ("ADL"), we urge the Justice Appropriations Subcommittee to oppose Committee Substitute for House Bill 9, "An act relating to reentry into state by certain persons" ("CS-HB 9"), when it is heard by the Subcommittee on January 13th.

ADL is the nation's leading civil rights and human relations organization combating anti-Semitism and all forms of bigotry, as well as promoting understanding and diversity throughout the United States and abroad. Since its founding in 1913, ADL has advocated for fair and humane immigration policies that honor our values as a nation of immigrants.

As a preliminary matter, CS-HB 9 is likely unconstitutional. Under the doctrine of preemption, a state may not enter a field that the federal government has reserved for itself or pass a law that stands in contradiction to a federal law. With regard to immigration policy, the U.S. Supreme Court has long held that "the government of the United States has broad, undoubted power over the subject of immigration and the status of aliens." *See, e.g., Arizona v. United States*, 132 S. Ct. 2492 (2012).

The Court has further held that, with respect to immigrants, "the removal process is entrusted to the discretion of the Federal Government." *Id.* Indeed, the Court has said that "[r]emoval is a civil action, not a criminal matter." *Id.* Furthermore, when the State of Arizona in 2010 attempted to criminalize the " 'willful failure to complete or carry an alien registration document ... in violation United States Code section 1304(e) and 1306(a), ' " and create a new state crime for " 'an authorized alien to knowingly apply for work ...,' " the Court struck down both provisions on preemption grounds. *Id.* The Court also struck down on preemption grounds another 2010 Arizona law that provided "a state officer, 'without a warrant, may arrest a person if the officer has probable cause to believe ... [the person] has committed any public offense that makes [him] removable from the United States.' " *Id.*

The federal government has set out clear and extensive laws and practices with regard to procedures after an immigrant has received an order of removal. *See* 8 C.F.R. §§ 241.1–241.15.
Given the federal government's broad reservation to itself in the field of immigration and the particular federal laws and regulations about treatment of immigrants after an order of removal, CS-HB 9 would likely be struck down as unconstitutional under the preemption doctrine.

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Assuming CS-HB 9 is constitutional, it would undermine public safety. Creating a state felony for reentering or remaining in the country after an order of deportation would place state and local law enforcement in the position of becoming entangled with immigration policy. ADL has long advocated for keeping immigration enforcement at the federal level, allowing local law enforcement to establish and foster trust with the communities they serve and protect.

As the largest non-governmental trainer of police on hate crimes, we know the importance of establishing and maintaining trust between local law enforcement and the communities they have sworn to serve and protect. Entangling local police with immigration enforcement jeopardizes the trust these agencies require to operate effectively. When immigrant communities start to fear local law enforcement, rather than to trust them, society in general becomes less safe. Relationships of trust between local communities and law enforcement agencies are what build safe and secure societies.

In light of these serious constitutional and policy issues, we urge the Subcommittee to oppose CS-HB 9.

Sincerely,

David Barkey
Southeastern Area Counsel

cc: House Justice Appropriations Subcommittee