

Date: March 12, 2022

To: House Federal & State Affairs Committee
Rep. John Barker, Chairman

From: Angela J. Ferguson, Austin & Ferguson L.L.C. on behalf of the Advocates for Immigrant Rights & Reconciliation

Re: HB 2717

Chairman Barker and Members of the Committee. My name is Angela Ferguson, and I am appearing on behalf of the Safe and Welcoming Coalition and coalition member, the Advocates for Immigrant Rights and Reconciliation (AIRR). I am currently on the Board for AIRR, and a former chair of the Kansas Chapter of the American Immigration Lawyers Association.

I am an Immigration Attorney, representing many individuals and businesses in Kansas for the past 35 years. **I am presenting this written testimony in opposition to HB 2717.**

The Dept. of Homeland Security (DHS) is the Federal agency that is responsible for immigration enforcement. DHS is composed of two Directorates, Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). These Directorates are tasked with removal and exclusion of undocumented immigrants from the U.S. and comprise the largest law enforcement entity in the U.S. DHS, as a federal agency, had a budget of \$72 billion in 2021, with an \$18 billion increase in 2022.

In 2021, the Attorney General of the U.S. provided guidance to DHS, setting Enforcement and Removal Priorities for Immigration personnel, with the justification for the priorities being *prosecutorial discretion, a vital tool used by law enforcement agencies nationwide.*

“Prosecutorial discretion is an indispensable feature of any functioning legal system”, according to the Principal Legal Advisor for ICE, John D. Trasvina, in a memo with instructions for ICE Officers. The exercise of prosecutorial discretion, where appropriate, can preserve limited government resources, achieve just and fair outcomes in individual cases, and advance the Department’s mission of administering and enforcing the immigration laws of the U.S. in a smart and sensible way that promotes public confidence.

The Office of the Principal Legal Advisor in DHS states that ICE attorneys should “remain mindful that immigration enforcement obligations do not consist only of initiating and conducting prompt proceedings that lead to removals at any cost. Rather, as has been said, the government wins when justice is done.” Matter of S-M-J-, 21 I&N Dec. 722, 727 (BIA 1997)

The purpose of HB 2717 is to prohibit, quash, stop and discourage the use of prosecutorial discretion by law enforcement in the State of Kansas, and by every municipality in the State of Kansas. In this case, the motivation behind HB 2717 was the Safe and Welcoming Ordinance that was recently passed, after five long years of research by the Unified Government Legal Dept. , community engagement and public hearings. The Wyandotte County Commissioners, District Attorney's office, Police Chief and community leaders made the determination that justice was better served when the County's limited resources were used for *county* obligations, and not to support the work of a fully funded federal agency (ICE).

HB 2717 would make it illegal for Police Chiefs, Cities and Counties to set policies that make economic sense. HB 2717 would take away home rule and replace it with heightened fear amongst those who reside in Kansas without documentation.

Please vote NO on HB 2717.

Respectfully submitted,

Angela J. Ferguson
Attorney at Law

