

By: Toth

H.B. No. 101

A BILL TO BE ENTITLED

AN ACT

relating to civil liability of municipalities for failure to comply with immigration detainer requests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.0216 to read as follows:

Sec. 101.0216. LIABILITY OF MUNICIPALITY FOR FAILURE TO COMPLY WITH IMMIGRATION DETAINER REQUEST. (a) Except as provided by Subsection (e), a municipality that releases from custody a person who is the subject of an immigration detainer request issued by United States Immigration and Customs Enforcement is liable for damages resulting from a felony committed by the person in this state within 10 years following the person's release if:

(1) the municipality did not detain the person as requested;

(2) the person was not a citizen of the United States at the time of release; and

(3) the attorney general has filed a petition or applied for equitable relief under Section 752.055, Government Code, against the municipality.

(b) An immigration detainer request described by Subsection (a) is presumed to be valid, regardless of whether the detainer is written or verbal.

1        (c) This section does not create liability for damages that  
2 a person who is subject to an immigration detainer request sustains  
3 following the person's release by a municipality.

4        (d) Governmental immunity of a municipality to suit is  
5 waived and abolished to the extent of liability created by this  
6 section.

7        (e) A municipality is not liable under Subsection (a) for  
8 damages incurred after United States Immigration and Customs  
9 Enforcement subsequently detains the person described by that  
10 subsection.

11        SECTION 2. Section 101.0216, Civil Practice and Remedies  
12 Code, as added by this Act, applies only with respect to the release  
13 of a person from custody on or after the effective date of this Act.

14        SECTION 3. This Act takes effect September 1, 2021.