

By: Harless

H.B. No. 404

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

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

SECTION 1. Section 370.003, Local Government Code, is amended to read as follows:

Sec. 370.003. LOCAL GOVERNMENT [~~MUNICIPAL OR COUNTY~~] POLICY REGARDING ENFORCEMENT OF STATE AND FEDERAL [~~DRUG~~] LAWS. (a) The governing body of a municipality, [~~the commissioners court of a~~] county, or special district or authority, or an officer, employee, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, county attorney, district attorney, or criminal district attorney, may not adopt a policy under which the entity will not fully enforce the laws of this state or federal law, including laws relating to:

(1) drugs, including Chapters 481 and 483, Health and Safety Code; and

(2) immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) [~~and federal law~~].

(b) In compliance with Subsection (a)(2), a local entity described by Subsection (a) may not prohibit or in any manner restrict an officer, employee, or other body that is part of the

1 local entity, including a sheriff, municipal police department,
2 municipal attorney, county attorney, district attorney, or
3 criminal district attorney from doing any of the following:

4 (1) with respect to information relating to the
5 immigration status, lawful or unlawful, of any individual:

6 (A) sending the information to or requesting or
7 receiving the information from the U.S. Citizenship and Immigration
8 Services, including information regarding an individual's place of
9 birth;

10 (B) maintaining the information; or

11 (C) exchanging the information with another
12 federal, state, or local governmental entity;

13 (2) assisting or cooperating with a federal
14 immigration officer as reasonable and necessary, including
15 providing enforcement assistance; or

16 (3) permitting a federal immigration officer to enter
17 and conduct enforcement activities at a municipal or county jail to
18 enforce federal immigration laws.

19 (c) A local entity described by Subsection (a) may not
20 receive state grant funds if the local entity adopts a rule, order,
21 ordinance, or policy under which the local entity will not fully
22 enforce the laws of this state or federal laws relating to
23 Subsection (a)(2) or, by consistent actions, fails to fully enforce
24 the laws of this state or federal laws relating to Subsection
25 (a)(2). State grant funds for the local entity shall be denied for
26 the fiscal year following the year in which the rule, order,
27 ordinance, or policy is adopted or the determination is made that

1 the entity has intentionally failed to fully enforce the laws of
2 this state or federal laws relating to Subsection (a)(2). The
3 Governor's Office of Budget, Planning, and Policy shall adopt rules
4 to implement this subsection uniformly among the state agencies
5 from which state grant funds are distributed to a local entity.

6 (d) Any citizen residing in a local entity described by
7 Subsection (a) that allegedly adopts a rule, order, ordinance, or
8 policy under which the local entity will not fully enforce the laws
9 of this state or federal laws relating to Subsection (a)(2) or, by
10 consistent actions, fails to fully enforce the laws of this state or
11 federal laws relating to Subsection (a)(2) may file a petition in a
12 district court of a county in which the entity is located for a writ
13 of mandamus to compel compliance with Subsection (a)(2).

14 SECTION 2. The heading to Chapter 370, Local Government
15 Code, is amended to read as follows:

16 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~
17 ~~AND COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE

18 TYPE OF LOCAL GOVERNMENT

19 SECTION 3. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2009.