

By: Williams, et al.

S.B. No. 9

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the enforcement of state and federal laws governing
3 immigration by certain governmental entities and the
4 administration of certain documentation of citizenship status and
5 other lawful admittance by the Department of Public Safety of the
6 State of Texas.

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

8 SECTION 1. Chapter 370, Local Government Code, is amended
9 by adding Section 370.0031 to read as follows:

10 Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING
11 ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This
12 section applies to:

13 (1) the governing body of a municipality, county, or
14 special district or authority, except as provided by Subsections
15 (b) and (b-1);

16 (2) an officer, employee, or other body that is part of
17 a municipality, county, or special district or authority, including
18 a sheriff, municipal police department, municipal attorney, or
19 county attorney; and

20 (3) a district attorney or criminal district attorney.

21 (b) This section does not apply to a school district or
22 open-enrollment charter school or a junior college district. This
23 section does not apply to the release of information contained in
24 education records of an educational agency or institution, except

1 in conformity with the Family Educational Rights and Privacy Act of
2 1974, Section 513, Pub. L. No. 93-380 (20 U.S.C. Section 1232g).

3 (b-1) This section does not apply to a hospital or hospital
4 district.

5 (c) An entity described by Subsection (a) may not adopt a
6 rule, order, ordinance, or policy under which the entity prohibits
7 the enforcement of the laws of this state or federal law relating to
8 immigrants or immigration, including the federal Immigration and
9 Nationality Act (8 U.S.C. Section 1101 et seq.).

10 (d) In compliance with Subsection (c), an entity described
11 by Subsection (a) may not prohibit a person employed by or otherwise
12 under the direction or control of the entity from doing any of the
13 following:

14 (1) inquiring into the immigration status of a person
15 lawfully detained for the investigation of a criminal offense or
16 arrested;

17 (2) with respect to information relating to the
18 immigration status, lawful or unlawful, of any person lawfully
19 detained for the investigation of a criminal offense or arrested:

20 (A) sending the information to or requesting or
21 receiving the information from United States Citizenship and
22 Immigration Services or United States Immigration and Customs
23 Enforcement, including information regarding an individual's place
24 of birth;

25 (B) maintaining the information; or

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

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

4 (4) permitting a federal immigration officer to enter
5 and conduct enforcement activities at a municipal or county jail to
6 enforce federal immigration laws.

7 (d-1) An entity described by Subsection (a) or a person
8 employed by or otherwise under the direction or control of the
9 entity may not consider race, color, language, or national origin
10 while enforcing the laws described by Subsection (c).

11 (e) An entity described by Subsection (a) may not receive
12 state grant funds if the entity adopts a rule, order, ordinance, or
13 policy under which the entity prohibits the enforcement of the laws
14 of this state or federal laws relating to Subsection (c) or, by
15 consistent actions, prohibits the enforcement of the laws of this
16 state or federal laws relating to Subsection (c). State grant funds
17 for the entity shall be denied for the fiscal year following the
18 year in which a final judicial determination in an action brought
19 under this section is made that the entity has intentionally
20 prohibited the enforcement of the laws of this state or federal laws
21 relating to Subsection (c).

22 (f) Any citizen residing in the jurisdiction of an entity
23 described by Subsection (a) may file a complaint with the attorney
24 general if the citizen offers evidence to support an allegation
25 that the entity has adopted a rule, order, ordinance, or policy
26 under which the entity prohibits the enforcement of the laws of this
27 state or federal laws relating to Subsection (c) or that, by

1 consistent actions, prohibits the enforcement of the laws of this
2 state or federal laws relating to Subsection (c). The citizen must
3 include with the complaint the evidence the citizen has that
4 supports the complaint.

5 (g) If the attorney general determines that a complaint
6 filed under Subsection (f) against an entity described by
7 Subsection (a) is valid, the attorney general may file a petition
8 for a writ of mandamus or apply for other appropriate equitable
9 relief in a district court in Travis County or in a county in which
10 the principal office of an entity described by Subsection (a) is
11 located to compel the entity that adopts a rule, order, ordinance,
12 or policy under which the local entity prohibits the enforcement of
13 the laws of this state or federal laws relating to Subsection (c) or
14 that, by consistent actions, prohibits the enforcement of the laws
15 of this state or federal laws relating to Subsection (c) to comply
16 with Subsection (c). The attorney general may recover reasonable
17 expenses incurred in obtaining relief under this subsection,
18 including court costs, reasonable attorney's fees, investigative
19 costs, witness fees, and deposition costs.

20 (h) An appeal of a suit brought under Subsection (g) is
21 governed by the procedures for accelerated appeals in civil cases
22 under the Texas Rules of Appellate Procedure. The appellate court
23 shall render its final order or judgment with the least possible
24 delay.

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

27 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~

1 ~~AND COUNTY]~~ HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE
2 TYPE OF LOCAL GOVERNMENT

3 SECTION 3. Chapter 2, Code of Criminal Procedure, is
4 amended by adding Articles 2.251 and 2.252 to read as follows:

5 Art. 2.251. ENFORCEMENT OF FEDERAL IMMIGRATION LAW. (a) A
6 peace officer may not stop a motor vehicle or conduct a search of a
7 business or residence solely to enforce a federal law relating to
8 immigrants or immigration, including the federal Immigration and
9 Nationality Act (8 U.S.C. Section 1101 et seq.), unless the officer
10 is acting at the request of, and providing assistance to, an
11 appropriate federal law enforcement officer.

12 (b) A peace officer may not, without a warrant, arrest a
13 person based solely on the person's suspected or alleged violation
14 of a civil provision of a federal law relating to immigrants or
15 immigration, including the federal Immigration and Nationality Act
16 (8 U.S.C. Section 1101 et seq.).

17 (c) A peace officer may arrest an undocumented person only
18 if the officer is acting under the authority granted under Article
19 2.13.

20 Art. 2.252. VERIFICATION OF IMMIGRATION STATUS OF PERSON
21 CHARGED WITH COMMITTING OFFENSE. (a) A local law enforcement
22 agency that has custody of a person who has been arrested and
23 transported to a place of detention shall verify the immigration
24 status of the person by use of the federal Secure Communities
25 program operated by United States Immigration and Customs
26 Enforcement or a successor program.

27 (b) A local law enforcement agency is not required to

1 conduct an immigration status verification under Subsection (a) of
2 a person who is transferred to the custody of the agency by another
3 law enforcement agency if the transferring agency, before
4 transferring custody of the person, conducted an immigration status
5 verification under Subsection (a).

6 SECTION 4. Subchapter A, Chapter 521, Transportation Code,
7 is amended by adding Section 521.007 to read as follows:

8 Sec. 521.007. TEMPORARY VISITOR STATIONS. (a) The
9 department shall designate as temporary visitor stations certain
10 driver's license offices.

11 (b) A driver's license office designated as a temporary
12 visitor station under this section must have at least two staff
13 members who have completed specialized training on the temporary
14 visitor issuance guide published by the department.

15 (c) A driver's license office designated as a temporary
16 visitor station shall provide information and assistance to other
17 driver's license offices in the state.

18 SECTION 5. Subsection (b), Section 521.041, Transportation
19 Code, is amended to read as follows:

20 (b) The department shall maintain suitable indexes, in
21 alphabetical or numerical order, that contain:

22 (1) each denied application and the reasons for the
23 denial;

24 (2) each application that is granted; ~~and~~

25 (3) the name of each license holder whose license has
26 been suspended, canceled, or revoked and the reasons for that
27 action; and

1 (4) the citizenship status of each holder of a license
2 or personal identification certificate.

3 SECTION 6. Section 521.101, Transportation Code, is amended
4 by adding Subsections (d-1), (f-2), and (f-3) and amending
5 Subsection (f) to read as follows:

6 (d-1) Unless the information has been previously provided
7 to the department, the department shall require each applicant for
8 an original, renewal, or duplicate personal identification
9 certificate to furnish to the department:

10 (1) proof of the applicant's United States
11 citizenship; or

12 (2) documentation described by Subsection (f-2).

13 (f) A personal identification certificate:

14 (1) for an applicant who is a citizen, national, or
15 legal permanent resident of the United States or a refugee or asylee
16 lawfully admitted into the United States:

17 (A) expires on a date specified by the department
18 if the applicant is younger than 60 years of age; or

19 (B) does not expire if the applicant is 60 years
20 of age or older; or

21 (2) for an applicant not described by Subdivision (1),
22 expires on:

23 (A) the earlier of:

24 (i) a date specified by the department; or

25 (ii) the expiration date of the applicant's
26 authorized stay in the United States; or

27 (B) the first anniversary of the date of

1 issuance, if there is no definite expiration date for the
2 applicant's authorized stay in the United States~~[, except that a~~
3 ~~certificate issued to a person 60 years of age or older does not~~
4 ~~expire].~~

5 (f-2) An applicant who is not a citizen of the United States
6 must present to the department documentation issued by the
7 appropriate United States agency that authorizes the applicant to
8 be in the United States.

9 (f-3) The department may not issue a personal
10 identification certificate to an applicant who fails or refuses to
11 comply with Subsection (f-2).

12 SECTION 7. Section 521.103, Transportation Code, is amended
13 by adding Subsection (c) to read as follows:

14 (c) Sections 521.101(f-2) and (f-3) apply to a personal
15 identification certificate for which application is made under this
16 section.

17 SECTION 8. Subsections (a) and (e), Section 521.142,
18 Transportation Code, are amended to read as follows:

19 (a) An application for an original license must state the
20 applicant's full name and place and date of birth. This information
21 must be verified by presentation of proof of identity satisfactory
22 to the department. An applicant who is not a citizen of the United
23 States must present to the department documentation issued by the
24 appropriate United States agency that authorizes the applicant to
25 be in the United States before the applicant may be issued a
26 driver's license. The department must accept as satisfactory proof
27 of identity under this subsection an offender identification card

1 or similar form of identification issued to an inmate by the Texas
2 Department of Criminal Justice if the applicant also provides
3 supplemental verifiable records or documents that aid in
4 establishing identity.

5 (e) The application must include any other information the
6 department requires to determine the applicant's identity,
7 residency, competency, and eligibility as required by the
8 department or state law.

9 SECTION 9. Section 521.1425, Transportation Code, is
10 amended by amending Subsection (a) and adding Subsection (c) to
11 read as follows:

12 (a) Except as provided by Subsections [~~Subsection~~] (b) and
13 (c), the department may require each applicant for an original,
14 renewal, or duplicate driver's license to furnish to the department
15 the information required by Section 521.142.

16 (c) Unless the information has been previously provided to
17 the department, the department shall require each applicant for an
18 original, renewal, or duplicate driver's license to furnish to the
19 department:

20 (1) proof of the applicant's United States
21 citizenship; or

22 (2) documentation described by Section 521.142(a).

23 SECTION 10. Section 521.271, Transportation Code, is
24 amended by amending Subsections (a) and (b) and adding Subsections
25 (a-2), (a-3), and (a-4) to read as follows:

26 (a) Each original driver's license, ~~and~~ provisional
27 license, instruction permit, or occupational driver's license

1 issued to an applicant who is a citizen, national, or legal
2 permanent resident of the United States or a refugee or asylee
3 lawfully admitted into the United States expires as follows:

4 (1) except as provided by Section 521.2711, a driver's
5 license expires on the first birthday of the license holder
6 occurring after the sixth anniversary of the date of the
7 application;

8 (2) a provisional license expires on the 18th
9 birthday of the license holder;

10 (3) an instruction permit expires on the 18th birthday
11 of the license holder;

12 (4) an occupational driver's license expires on the
13 first anniversary of the court order granting the license; and

14 (5) unless an earlier date is otherwise provided, a
15 driver's license issued to a person whose residence or domicile is a
16 correctional facility or a parole facility expires on the first
17 birthday of the license holder occurring after the first
18 anniversary of the date of issuance.

19 (a-2) Each original driver's license issued to an applicant
20 who is not a citizen, national, or legal permanent resident of the
21 United States or a refugee or asylee lawfully admitted into the
22 United States expires on:

23 (1) the earlier of:

24 (A) the first birthday of the license holder
25 occurring after the sixth anniversary of the date of the
26 application; or

27 (B) the expiration date of the license holder's

1 lawful presence in the United States as determined by the
2 appropriate United States agency in compliance with federal law; or

3 (2) the first anniversary of the date of issuance, if
4 there is no definite expiration date for the applicant's authorized
5 stay in the United States.

6 (a-3) Each original provisional license or instruction
7 permit issued to an applicant who is not a citizen, national, or
8 legal permanent resident of the United States or a refugee or asylee
9 lawfully admitted into the United States expires on the earliest
10 of:

11 (1) the 18th birthday of the license holder;

12 (2) the first birthday of the license holder occurring
13 after the date of the application; or

14 (3) the expiration of the license holder's lawful
15 presence in the United States as determined by the United States
16 agency responsible for citizenship and immigration in compliance
17 with federal law.

18 (a-4) Each original occupational driver's license issued to
19 an applicant who is not a citizen, national, or legal permanent
20 resident of the United States or a refugee or asylee lawfully
21 admitted into the United States expires on the earlier of:

22 (1) the first anniversary of the date of issuance; or

23 (2) the expiration of the license holder's lawful
24 presence in the United States as determined by the appropriate
25 United States agency in compliance with federal law.

26 (b) Except as provided by Section 521.2711, a driver's
27 license that is renewed expires on the earlier of:

1 (1) the sixth anniversary of the expiration date
2 before renewal if the applicant is a citizen, national, or legal
3 permanent resident of the United States or a refugee or asylee
4 lawfully admitted into the United States;

5 (1-a) for an applicant not described by Subdivision
6 (1):

7 (A) the earlier of:

8 (i) the sixth anniversary of the expiration
9 date before renewal; or

10 (ii) the expiration date of the applicant's
11 authorized stay in the United States; or

12 (B) the first anniversary of the date of
13 issuance, if there is no definite expiration date for the
14 applicant's authorized stay in the United States; or

15 (2) for a renewal driver's license issued to a person
16 whose residence or domicile is a correctional facility or a parole
17 facility, the first birthday of the license holder occurring after
18 the first anniversary of the date of issuance unless an earlier date
19 is otherwise provided.

20 SECTION 11. Section 521.2711, Transportation Code, is
21 amended by adding Subsection (c) to read as follows:

22 (c) Notwithstanding Subsections (a) and (b), an original or
23 renewal driver's license issued to an applicant who is 85 years of
24 age or older and not a citizen, national, or legal permanent
25 resident of the United States or a refugee or asylee lawfully
26 admitted into the United States expires on:

27 (1) the earlier of:

1 (A) the second anniversary of the expiration date
2 before renewal; or

3 (B) the expiration date of the applicant's
4 authorized stay in the United States; or

5 (2) the first anniversary of the date of issuance if
6 there is no definite expiration date for the applicant's authorized
7 stay in the United States.

8 SECTION 12. Section 521.272, Transportation Code, is
9 amended by amending Subsection (c) and adding Subsection (d) to
10 read as follows:

11 (c) Notwithstanding Sections [~~Section~~] 521.271 and
12 521.2711, a driver's license issued under this section, including a
13 renewal, duplicate, or corrected license, expires:

14 (1) if the license holder is a citizen, national, or
15 legal permanent resident of the United States or a refugee or asylee
16 lawfully admitted into the United States, on the first birthday of
17 the license holder occurring after the date of application, except
18 that the initial license issued under this section expires on the
19 second birthday of the license holder occurring after the date of
20 application; or

21 (2) if the applicant is not described by Subdivision
22 (1), on the earlier of:

23 (A) the expiration date of the applicant's
24 authorized stay in the United States; or

25 (B) the first birthday of the license holder
26 occurring after the date of application, except that the initial
27 license issued under this section expires on the second birthday of

1 the license holder occurring after the date of application.

2 (d) Subsection (c) [~~This subsection~~] does not apply to:

3 (1) a provisional license;

4 (2) an instruction permit issued under Section
5 521.222; or

6 (3) a hardship license issued under Section 521.223.

7 SECTION 13. Section 521.421, Transportation Code, is
8 amended by adding Subsection (a-3) to read as follows:

9 (a-3) Except as provided by Subsections (a-1) and (a-2), the
10 fee for a driver's license or personal identification certificate
11 that is issued to a person who is not a citizen, national, or legal
12 permanent resident of the United States or a refugee or asylee
13 lawfully admitted into the United States and that is valid for not
14 more than one year is \$24.

15 SECTION 14. Subsection (b), Section 522.033,
16 Transportation Code, is amended to read as follows:

17 (b) Notwithstanding Section 522.051, a commercial driver's
18 license or commercial driver learner's permit issued under this
19 section, including a renewal, duplicate, or corrected license,
20 expires:

21 (1) if the license or permit holder is a citizen,
22 national, or legal permanent resident of the United States or a
23 refugee or asylee lawfully admitted into the United States, on the
24 first birthday of the license holder occurring after the date of
25 application, except that the initial license issued under this
26 section expires on the second birthday of the license holder
27 occurring after the date of application; or

1 (2) if the applicant is not described by Subdivision
2 (1), on the earlier of:

3 (A) the expiration date of the applicant's
4 authorized stay in the United States; or

5 (B) the first birthday of the license holder
6 occurring after the date of application, except that the initial
7 license issued under this section expires on the second birthday of
8 the license holder occurring after the date of application.

9 SECTION 15. Section 522.052, Transportation Code, is
10 amended by adding Subsection (i) to read as follows:

11 (i) Unless the information has been previously provided to
12 the department, the department shall require each applicant for a
13 renewal or duplicate commercial driver's license to furnish to the
14 department:

15 (1) proof of the applicant's United States
16 citizenship; or

17 (2) documentation described by Section 521.142(a).

18 SECTION 16. Not later than January 1, 2013, the Department
19 of Public Safety of the State of Texas shall submit to the
20 legislature a report evaluating the effectiveness of the temporary
21 visitor stations established under Section 521.007, Transportation
22 Code, as added by this Act.

23 SECTION 17. The changes in law made by this Act to Chapters
24 521 and 522, Transportation Code, apply only to a driver's license,
25 personal identification certificate, commercial driver's license,
26 or commercial driver learner's permit issued, reissued,
27 reinstated, or renewed on or after the effective date of this Act.

1 A driver's license, personal identification certificate,
2 commercial driver's license, or commercial driver learner's permit
3 issued, reissued, reinstated, or renewed before the effective date
4 of this Act is governed by the law in effect when the license,
5 certificate, or permit was issued, reissued, reinstated, or
6 renewed, and the former law is continued in effect for that purpose.

7 SECTION 18. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect on the 91st day after the last day of
12 the legislative session.