

By: Harless

H.B. No. 113

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; providing a civil  
4 penalty.

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

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

8 Sec. 370.003. LOCAL GOVERNMENT [~~MUNICIPAL OR COUNTY~~] POLICY  
9 REGARDING ENFORCEMENT OF STATE AND FEDERAL [~~DRUG~~] LAWS. (a) This  
10 section applies to:

11 (1) the [~~The~~] governing body of a municipality, [~~the~~  
12 ~~commissioners court of a~~] county, or special district or authority;

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

17 (3) a[~~7~~] district attorney[~~7~~] or criminal district  
18 attorney.

19 (b) An entity described by Subsection (a) may not adopt a  
20 policy under which the entity will not fully enforce the laws of  
21 this state or federal law, including laws relating to:

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

24 (2) immigrants or immigration, including the federal

1 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.)~~[7~~  
2 ~~and federal law]~~.

3 (c) In compliance with Subsection (b)(2), an entity  
4 described by Subsection (a) may not prohibit or in any manner  
5 restrict a person employed by or otherwise under the direction or  
6 control of the entity from doing any of the following:

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

9 (A) sending the information to or requesting or  
10 receiving the information from United States Citizenship and  
11 Immigration Services or United States Immigration and Customs  
12 Enforcement, including information regarding an individual's place  
13 of birth;

14 (B) maintaining the information; or

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

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

20 (3) permitting a federal immigration officer to enter  
21 and conduct enforcement activities at a municipal or county jail to  
22 enforce federal immigration laws.

23 (d) An entity described by Subsection (a) may not receive  
24 state grant funds if the entity adopts a rule, order, ordinance, or  
25 policy under which the entity will not fully enforce the laws of  
26 this state or federal laws relating to Subsection (b)(2) or, by  
27 consistent actions, fails to fully enforce the laws of this state or

1 federal laws relating to Subsection (b)(2). State grant funds for  
2 the entity shall be denied for the fiscal year following the year in  
3 which the rule, order, ordinance, or policy is adopted or the  
4 determination is made that the entity has intentionally failed to  
5 fully enforce the laws of this state or federal laws relating to  
6 Subsection (b)(2). The Governor's Office of Budget, Planning, and  
7 Policy shall adopt rules to implement this subsection uniformly  
8 among the state agencies from which state grant funds are  
9 distributed to an entity.

10 (e) An entity described by Subsection (a) is liable to the  
11 state for a civil penalty if the entity adopts a rule, order,  
12 ordinance, or policy under which the entity will not fully enforce  
13 the laws of this state or federal laws relating to Subsection (b)(2)  
14 or, by consistent actions, fails to fully enforce the laws of this  
15 state or federal laws relating to Subsection (b)(2). The amount of  
16 a penalty imposed under this subsection is \$10,000 for each day of  
17 the violation. The attorney general may recover a penalty under  
18 this subsection in a suit brought on behalf of the state. The  
19 prevailing party in an action brought under this subsection may  
20 recover court costs and reasonable attorney's fees. A penalty  
21 collected under this subsection shall be paid to the comptroller  
22 for deposit in the general revenue fund.

23 (f) Any citizen residing in the jurisdiction of an entity  
24 described by Subsection (a) that allegedly adopts a rule, order,  
25 ordinance, or policy under which the entity will not fully enforce  
26 the laws of this state or federal laws relating to Subsection (b)(2)  
27 or, by consistent actions, fails to fully enforce the laws of this

1 state or federal laws relating to Subsection (b)(2) may apply for  
2 appropriate equitable relief in a district court of a county in  
3 which the principal office of the entity is located to compel  
4 compliance with Subsection (b)(2).

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

7 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~  
8 ~~AND COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE  
9 TYPE OF LOCAL GOVERNMENT

10 SECTION 3. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2011.