

By: Paxton

H.B. No. 1297

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforcement of certain laws governing immigration
3 and to certain requirements concerning illegal criminal aliens in
4 the custody of the Texas Department of Criminal Justice.

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

6 SECTION 1. Chapter 2, Code of Criminal Procedure, is
7 amended by adding Article 2.139 to read as follows:

8 Art. 2.139. CERTAIN POLICIES PROHIBITED. A state
9 governmental entity or a political subdivision of the state may not
10 adopt a rule, policy, or ordinance, or follow or establish a
11 commonly accepted practice, that requires a peace officer to
12 violate a state or federal criminal law.

13 SECTION 2. Article 102.056, Code of Criminal Procedure, is
14 amended by adding Subsection (f) to read as follows:

15 (f) A local unit of government or a combination of local
16 units of government may request funds from the criminal justice
17 division of the governor's office, and the division may award the
18 requested funds, for expenditures incurred by the local unit or
19 units under Section 370.005, Local Government Code.

20 SECTION 3. Chapter 493, Government Code, is amended by
21 adding Section 493.0149 to read as follows:

22 Sec. 493.0149. REPORT CONCERNING ILLEGAL CRIMINAL ALIENS.

23 (a) In this section, "illegal criminal alien" has the meaning
24 assigned by Section 493.015.

1 (b) Not later than January 1 of each year, the department
2 shall make available to the public on the department's Internet
3 website a report concerning illegal criminal aliens who were in the
4 custody of the department during the state fiscal year that ended on
5 August 31 of the calendar year immediately preceding the calendar
6 year in which the report is made available.

7 (c) The report must include:

8 (1) the total number of illegal criminal aliens who
9 were in the custody of the department during the applicable state
10 fiscal year;

11 (2) the total number of illegal criminal aliens
12 transferred from the custody of the department to the custody of
13 United States Immigration and Customs Enforcement during the
14 applicable state fiscal year; and

15 (3) information regarding the cost incurred by the
16 department to imprison illegal criminal aliens during the
17 applicable state fiscal year, including whether the department or
18 the state received any federal funds to reimburse the department or
19 the state for that cost and the amount of any federal funds
20 received.

21 SECTION 4. Subchapter F, Chapter 508, Government Code, is
22 amended by adding Section 508.192 to read as follows:

23 Sec. 508.192. REENTRY INTO THE UNITED STATES PROHIBITED.

24 (a) In this section, "illegal criminal alien" has the meaning
25 assigned by Section 493.015.

26 (b) A parole panel shall require as a condition of parole or
27 mandatory supervision that an illegal criminal alien released to

1 the custody of United States Immigration and Customs Enforcement
2 not unlawfully return to or unlawfully reenter the United States in
3 violation of the Immigration Reform and Control Act of 1986 (8
4 U.S.C. Section 1101 et seq.).

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

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

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

12 Sec. 370.003. MUNICIPAL OR COUNTY POLICY REGARDING
13 [~~ENFORCEMENT OF~~] DRUG LAWS OR CERTAIN LAWS RELATING TO IMMIGRATION.

14 The governing body of a municipality, the commissioners court of a
15 county, or a sheriff, municipal police department, municipal
16 attorney, county attorney, district attorney, or criminal district
17 attorney may not adopt a rule, policy, or ordinance under which the
18 entity will:

19 (1) not [~~fully~~] enforce criminal laws relating to
20 drugs, including Chapters 481 and 483, Health and Safety Code, and
21 federal law;

22 (2) refuse to take an action that is authorized under 8
23 U.S.C. Section 1252c and permitted under state law; or

24 (3) violate 8 U.S.C. Section 1324.

25 SECTION 7. Chapter 370, Local Government Code, is amended
26 by adding Section 370.005 to read as follows:

27 Sec. 370.005. PERFORMANCE OF IMMIGRATION OFFICER

1 FUNCTIONS. (a) Notwithstanding any other law, a political
2 subdivision of this state may enter into a written agreement with
3 the United States attorney general and United States Immigration
4 and Customs Enforcement under Section 287(g), Immigration and
5 Nationality Act (8 U.S.C. Section 1357), to:

6 (1) provide employees of the political subdivision
7 with immigration law training under the supervision of United
8 States Immigration and Customs Enforcement officers; and

9 (2) authorize employees of the subdivision to perform
10 a function of an immigration officer.

11 (b) If a political subdivision enters into an agreement
12 described by Subsection (a):

13 (1) neither the agreement nor the political
14 subdivision may require a peace officer employed, appointed, or
15 commissioned by the political subdivision to violate Article 2.131,
16 Code of Criminal Procedure; and

17 (2) the agreement and the political subdivision must
18 require a peace officer employed, appointed, or commissioned by the
19 political subdivision to comply with the reporting requirements
20 described by Article 2.133, Code of Criminal Procedure, when the
21 peace officer is performing a function of an immigration officer.

22 SECTION 8. The Texas Department of Criminal Justice shall
23 make available to the public the first report required under
24 Section 493.0149, Government Code, as added by this Act, not later
25 than January 1, 2013.

26 SECTION 9. The change in law made by Section 508.192,
27 Government Code, as added by this Act, applies only to a person who

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1 is released on parole or to mandatory supervision on or after the
2 effective date of this Act.

3 SECTION 10. This Act takes effect September 1, 2011.