

By: Bonnen

H.B. No. 1800

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the detection and reporting of unauthorized
3 immigration, the collection and dissemination of information
4 concerning unauthorized immigration, and the enforcement of
5 certain laws governing immigration.

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

7 SECTION 1. Chapter 2, Code of Criminal Procedure, is
8 amended by adding Article 2.252 to read as follows:

9 Art. 2.252. VERIFICATION OF ARRESTED PERSON'S IMMIGRATION
10 STATUS. (a) Not later than 48 hours after a person is arrested and
11 before the person is released on bond, the law enforcement agency
12 that has custody of the person shall:

13 (1) have the person's immigration status verified by:

14 (A) a peace officer or other law enforcement
15 officer of this state who is authorized under federal law to verify
16 a person's immigration status; or

17 (B) a federal law enforcement officer, in
18 accordance with 8 U.S.C. Section 1373(c); and

19 (2) notify United States Immigration and Customs
20 Enforcement that the person is in the custody of the law enforcement
21 agency if the person:

22 (A) is not a citizen or national of the United
23 States; and

24 (B) is unlawfully present in the United States

1 according to the terms of the Immigration Reform and Control Act of
2 1986 (8 U.S.C. Section 1101 et seq.).

3 (b) A law enforcement agency that provides notice to United
4 States Immigration and Customs Enforcement under Subsection (a)(2)
5 shall immediately provide to the Department of Public Safety of the
6 State of Texas the following information concerning the person
7 arrested:

8 (1) the results of the immigration status
9 verification; and

10 (2) other information described by Article 61A.02(b).

11 SECTION 2. Title 1, Code of Criminal Procedure, is amended
12 by adding Chapter 61A to read as follows:

13 CHAPTER 61A. IMMIGRATION DATABASE

14 Art. 61A.01. DEFINITION. In this chapter, "department"
15 means the Department of Public Safety of the State of Texas.

16 Art. 61A.02. CENTRAL DATABASE; PUBLIC INFORMATION.

17 (a) The department shall maintain a computerized central database
18 containing information regarding each person:

19 (1) who has been arrested in this state; and

20 (2) with reference to whom an immigration status
21 verification under Article 2.252 has revealed that the person:

22 (A) is not a citizen or national of the United
23 States; and

24 (B) is unlawfully present in the United States
25 according to the terms of the Immigration Reform and Control Act of
26 1986 (8 U.S.C. Section 1101 et seq.).

27 (b) The department may include in the database any

1 information that the department determines to be relevant and that
2 is not confidential or protected from disclosure under other law.

3 The information contained in the database must include:

4 (1) the person's name;

5 (2) the offense for which the person was arrested;

6 (3) the results of each immigration status
7 verification concerning the person;

8 (4) the law enforcement agency by which the person is
9 or was being detained; and

10 (5) if applicable, whether the person has been
11 released or discharged from the custody of a law enforcement agency
12 in this state, including whether the person has been transferred to
13 the custody of United States Immigration and Customs Enforcement
14 for the initiation or completion of deportation proceedings and
15 information regarding the disposition of those proceedings.

16 (c) The department shall make the information contained in
17 the database available to any peace officer or law enforcement
18 agency in the state.

19 (d) The information contained in the database is public
20 information, with the exception of information regarding any social
21 security number, driver's license or personal identification
22 certificate number, or telephone number used by the person,
23 regardless of whether the number belongs or has been assigned to the
24 person.

25 (e) The department shall publish on its Internet website:

26 (1) all public information contained in the database;

27 and

1 (2) a list of all persons in the database who have been
2 released or discharged from the custody of a law enforcement agency
3 in this state, including an indication as to whether the person has
4 been transferred to the custody of United States Immigration and
5 Customs Enforcement for the initiation or completion of deportation
6 proceedings and information regarding the disposition of those
7 proceedings.

8 (f) The department shall design and implement a system for:

9 (1) receiving information from a law enforcement
10 agency under Article 2.252 and including that information in the
11 database;

12 (2) notifying a person whose information is included
13 in the database of that fact and of the procedure and requirements
14 for removing information from the database;

15 (3) removing from the database and the department's
16 Internet website information concerning a person who provides to
17 the department documentation issued by United States Citizenship
18 and Immigration Services that authorizes the person to be in the
19 United States; and

20 (4) notifying United States Immigration and Customs
21 Enforcement of the arrest of a person described by Subsection (a) on
22 each business day following the date of the arrest until the
23 earliest of:

24 (A) the date the person is released or discharged
25 from the custody of a law enforcement agency in this state,
26 including being transferred to the custody of United States
27 Immigration and Customs Enforcement;

1 (B) the date United States Immigration and
2 Customs Enforcement issues a detainer with respect to the person;
3 or
4 (C) the 10th business day after the date of the
5 arrest.

6 SECTION 3. Section 411.135(a), Government Code, is amended
7 to read as follows:

8 (a) Any person is entitled to obtain from the department:

9 (1) any information described as public information
10 under Chapter 61A or 62, Code of Criminal Procedure, [~~as added by~~
11 ~~Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,~~]
12 including, to the extent available, a recent photograph of each
13 person subject to registration under Chapter 62 [~~that chapter~~]; and

14 (2) criminal history record information maintained by
15 the department that relates to the conviction of or a grant of
16 deferred adjudication to a person for any criminal offense,
17 including arrest information that relates to the conviction or
18 grant of deferred adjudication.

19 SECTION 4. The heading to Chapter 370, Local Government
20 Code, is amended to read as follows:

21 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND~~
22 ~~COUNTY~~] HEALTH AND PUBLIC SAFETY APPLICABLE TO MORE THAN ONE TYPE OF
23 LOCAL GOVERNMENT

24 SECTION 5. Section 370.003, Local Government Code, is
25 amended to read as follows:

26 Sec. 370.003. LOCAL GOVERNMENT [~~MUNICIPAL OR COUNTY~~] POLICY
27 REGARDING ENFORCEMENT OF STATE AND FEDERAL [~~DRUG~~] LAWS. (a) This

1 section applies to:

2 (1) the [The] governing body of a municipality, [the
3 commissioners court of a] county, or other political subdivision;

4 (2) an officer, employee, or other body that is part of
5 a municipality, county, or other political subdivision, including a
6 sheriff, municipal police department, municipal attorney, or
7 county attorney; or

8 (3) a[~~r~~] district attorney[~~r~~] or criminal district
9 attorney.

10 (b) An entity described by Subsection (a) may not adopt a
11 rule, order, ordinance, or policy under which the entity will not
12 fully enforce laws relating to:

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

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

18 (c) An entity described by Subsection (a) may not receive
19 state money or retain unexpended state money if the entity adopts a
20 rule, order, ordinance, or policy under which the entity will not
21 fully enforce laws described by Subsection (b)(2) or, by consistent
22 actions, fails to fully enforce those laws.

23 (d) If the attorney general determines that an entity
24 described by Subsection (a) is ineligible to retain state money as
25 provided by Subsection (c), the attorney general shall notify the
26 entity of that determination and the entity shall promptly forfeit
27 and repay to the state all unexpended state money held by the

1 entity. The attorney general shall stay the duty to repay pending
2 the outcome of an appeal under Subsection (e).

3 (e) Not later than the 21st day after the date of receiving
4 notice of a determination under Subsection (d), an entity may
5 appeal the determination to a Travis County district court.

6 (f) An entity described by Subsection (a) that is determined
7 ineligible to retain state money as provided by Subsections (d) and
8 (e) shall be denied state money for each fiscal year:

9 (1) following the year in which the rule, order,
10 ordinance, or policy is adopted or the determination is made that
11 the entity has intentionally failed to fully enforce laws described
12 by Subsection (b)(2); and

13 (2) during which the rule, order, ordinance, or policy
14 that resulted in the determination remains in effect or the failure
15 to enforce that resulted in the determination continues.

16 SECTION 6. Not later than March 1, 2012, the Department of
17 Public Safety of the State of Texas shall implement the
18 computerized central database required by Chapter 61A, Code of
19 Criminal Procedure, as added by this Act.

20 SECTION 7. This Act takes effect September 1, 2011.