

1-1 By: Perry, Campbell, Hall S.B. No. 185  
 1-2 (In the Senate - Filed November 17, 2014; January 27, 2015,  
 1-3 read first time and referred to Subcommittee on Border Security;  
 1-4 April 6, 2015, reported adversely, with favorable Committee  
 1-5 Substitute to Committee on Veteran Affairs and Military  
 1-6 Installations; April 13, 2015, reported adversely, with favorable  
 1-7 Committee Substitute by the following vote: Yeas 4, Nays 3;  
 1-8 April 13, 2015, sent to printer.)

1-9 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-10				
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15	X			
1-16		X		
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 185 By: Birdwell

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the enforcement of state and federal laws governing  
 1-22 immigration by certain governmental entities.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 370, Local Government Code, is amended  
 1-25 by adding Section 370.0031 to read as follows:

1-26 Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING  
 1-27 ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This  
 1-28 section applies to the following entities:

1-29 (1) the governing body of a municipality, county, or  
 1-30 special district or authority, subject to Subsections (b) and (c);

1-31 (2) an officer, employee, or other body that is part of  
 1-32 a municipality, county, or special district or authority, including  
 1-33 a sheriff, municipal police department, municipal attorney, or  
 1-34 county attorney; and

1-35 (3) a district attorney or criminal district attorney.

1-36 (b) This section does not apply to a school district or  
 1-37 open-enrollment charter school. This section does not apply to the  
 1-38 release of information contained in education records of an  
 1-39 educational agency or institution, except in conformity with the  
 1-40 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.  
 1-41 Section 1232g).

1-42 (c) This section does not apply to a hospital or hospital  
 1-43 district created under Subtitle C or D, Title 4, Health and Safety  
 1-44 Code, or a hospital district created under a general or special law  
 1-45 authorized by Article IX, Texas Constitution, to the extent that  
 1-46 the hospital or hospital district is providing access to or  
 1-47 delivering medical or health care services as required under the  
 1-48 following applicable federal or state laws:

1-49 (1) 42 U.S.C. Section 1395dd;

1-50 (2) 42 U.S.C. Section 1396b(v);

1-51 (3) Subchapter C, Chapter 61, Health and Safety Code;

1-52 (4) Chapter 81, Health and Safety Code; and

1-53 (5) Section 311.022, Health and Safety Code.

1-54 (d) Subsection (c) does not exclude the application of this  
 1-55 section to a commissioned peace officer employed by or commissioned  
 1-56 by a hospital or hospital district subject to Subsection (c).

1-57 (e) An entity described by Subsection (a) shall not adopt a  
 1-58 rule, order, ordinance, or policy under which the entity prohibits  
 1-59 the enforcement of the laws of this state or federal law relating to  
 1-60 immigrants or immigration, including the federal Immigration and

2-1 Nationality Act (8 U.S.C. Section 1101 et seq.).

2-2 (f) In compliance with Subsection (e), an entity described  
 2-3 by Subsection (a) shall not prohibit a person who is a commissioned  
 2-4 peace officer described by Article 2.12, Code of Criminal  
 2-5 Procedure, a corrections officer, a booking clerk, a magistrate, or  
 2-6 a district attorney, criminal district attorney, or other  
 2-7 prosecuting attorney and who is employed by or otherwise under the  
 2-8 direction or control of the entity from doing any of the following:

2-9 (1) inquiring into the immigration status of a person  
 2-10 lawfully detained for the investigation of a criminal offense or  
 2-11 arrested;

2-12 (2) with respect to information relating to the  
 2-13 immigration status, lawful or unlawful, of any person lawfully  
 2-14 detained for the investigation of a criminal offense or arrested:

2-15 (A) sending the information to or requesting or  
 2-16 receiving the information from United States Citizenship and  
 2-17 Immigration Services or United States Immigration and Customs  
 2-18 Enforcement, including information regarding a person's place of  
 2-19 birth;

2-20 (B) maintaining the information; or

2-21 (C) exchanging the information with another  
 2-22 federal, state, or local governmental entity;

2-23 (3) assisting or cooperating with a federal  
 2-24 immigration officer as reasonable and necessary, including  
 2-25 providing enforcement assistance; or

2-26 (4) permitting a federal immigration officer to enter  
 2-27 and conduct enforcement activities at a municipal or county jail to  
 2-28 enforce federal immigration laws.

2-29 (f-1) For purposes of Subsection (f), a person is not  
 2-30 considered lawfully detained if the sole reason for the detention  
 2-31 is that the person is:

2-32 (1) a victim of or witness to a criminal offense; or

2-33 (2) reporting a criminal offense.

2-34 (g) An entity described by Subsection (a) or a person  
 2-35 employed by or otherwise under the direction or control of the  
 2-36 entity may not consider race, color, language, or national origin  
 2-37 while enforcing the laws described by Subsection (e) except to the  
 2-38 extent permitted by the United States Constitution or the Texas  
 2-39 Constitution.

2-40 (h) Any citizen residing in the jurisdiction of an entity  
 2-41 described by Subsection (a) may file a complaint with the attorney  
 2-42 general if the citizen offers evidence to support an allegation  
 2-43 that the entity has adopted a rule, order, ordinance, or policy  
 2-44 under which the entity prohibits the enforcement of the laws  
 2-45 described by Subsection (e) or that the entity, by consistent  
 2-46 actions, prohibits the enforcement of those laws. The citizen must  
 2-47 include with the complaint the evidence the citizen has that  
 2-48 supports the complaint.

2-49 (i) If the attorney general determines that a complaint  
 2-50 filed under Subsection (h) against an entity described by  
 2-51 Subsection (a) is valid, the attorney general shall, not later than  
 2-52 the 10th day after the date of the determination, provide written  
 2-53 notification to the entity that:

2-54 (1) the complaint has been filed;

2-55 (2) the attorney general has determined that the  
 2-56 complaint is valid;

2-57 (3) the attorney general is authorized to file an  
 2-58 action to enjoin the violation if the entity does not come into  
 2-59 compliance with the requirements of this section on or before the  
 2-60 90th day after the date the notification is provided; and

2-61 (4) the entity will be denied state funds for the state  
 2-62 fiscal year following the year in which a final judicial  
 2-63 determination in an action brought under Subsection (j) is made.

2-64 (j) If the attorney general determines that a complaint  
 2-65 filed under Subsection (h) against an entity described by  
 2-66 Subsection (a) is valid, the attorney general may file a petition  
 2-67 for a writ of mandamus or apply for other appropriate equitable  
 2-68 relief in a district court in Travis County or in a county in which  
 2-69 the principal office of an entity described by Subsection (a) is

3-1 located to compel the entity that adopts a rule, order, ordinance,  
3-2 or policy under which the local entity prohibits the enforcement of  
3-3 the laws described by Subsection (e) or that, by consistent  
3-4 actions, prohibits the enforcement of those laws to comply with  
3-5 Subsection (e). The attorney general may recover reasonable  
3-6 expenses incurred in obtaining relief under this subsection,  
3-7 including court costs, reasonable attorney's fees, investigative  
3-8 costs, witness fees, and deposition costs.

3-9 (k) An appeal of a suit brought under Subsection (j) is  
3-10 governed by the procedures for accelerated appeals in civil cases  
3-11 under the Texas Rules of Appellate Procedure. The appellate court  
3-12 shall render its final order or judgment with the least possible  
3-13 delay.

3-14 (l) An entity described by Subsection (a) may not receive  
3-15 state funds if the entity adopts a rule, order, ordinance, or policy  
3-16 under which the entity prohibits the enforcement of the laws  
3-17 described by Subsection (e) or, by consistent actions, prohibits  
3-18 the enforcement of those laws. State funds for the entity shall be  
3-19 denied for the state fiscal year following the year in which a final  
3-20 judicial determination in an action brought under Subsection (j) is  
3-21 made that the entity has intentionally prohibited the enforcement  
3-22 of the laws described by Subsection (e). The comptroller shall  
3-23 adopt rules to implement this subsection uniformly among the state  
3-24 agencies from which state funds are distributed to a municipality  
3-25 or county.

3-26 (m) An entity described by Subsection (a) that complies with  
3-27 this section may not be denied state funds, regardless of whether  
3-28 the entity is a part of another entity that is in violation of this  
3-29 section.

3-30 SECTION 2. The heading to Chapter 370, Local Government  
3-31 Code, is amended to read as follows:

3-32 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [MUNICIPAL  
3-33 AND COUNTY] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE  
3-34 TYPE OF LOCAL GOVERNMENT

3-35 SECTION 3. This Act takes effect immediately if it receives  
3-36 a vote of two-thirds of all the members elected to each house, as  
3-37 provided by Section 39, Article III, Texas Constitution. If this  
3-38 Act does not receive the vote necessary for immediate effect, this  
3-39 Act takes effect September 1, 2015.

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