

By: Garcia, Rodríguez

S.B. No. 109

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the repeal of certain provisions governing state and  
3 local enforcement of immigration laws and to certain other  
4 provisions related to immigration law.

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

6 SECTION 1. The following provisions that are effective  
7 September 1, 2017, are repealed:

- 8 (1) Articles [2.13](#)(d) and (e), Code of Criminal  
9 Procedure, as added by S.B. 4, Acts of the 85th Legislature,  
10 Regular Session, 2017;
- 11 (2) Article 2.251, Code of Criminal Procedure;
- 12 (3) Article [17.16](#)(a-1), Code of Criminal Procedure;
- 13 (4) Article 42.039, Code of Criminal Procedure;
- 14 (5) Section 402.0241, Government Code;
- 15 (6) Subchapter C, Chapter [752](#), Government Code;
- 16 (7) Section 772.0073, Government Code, as added by  
17 S.B. 4, Acts of the 85th Legislature, Regular Session, 2017;
- 18 (8) Section [87.031](#)(c), Local Government Code; and
- 19 (9) Section 39.07, Penal Code.

20 SECTION 2. Article [17.16](#)(a), Code of Criminal Procedure, as  
21 effective September 1, 2017, is amended to read as follows:

22 (a) A surety may before forfeiture relieve the surety of the  
23 surety's undertaking by:

- 24 (1) surrendering the accused into the custody of the

1 sheriff of the county where the prosecution is pending; or

2 (2) delivering to the sheriff of the county in which  
3 the prosecution is pending and to the office of the prosecuting  
4 attorney an affidavit stating that the accused is incarcerated in[+]

5 [~~(A)~~] federal custody, in [~~subject to Subsection~~  
6 ~~(a-1)~~],

7 [~~(B)~~] the custody of any state, [+] or in

8 [~~(C)~~] any county of this state.

9 SECTION 3. Chapter 752, Government Code, is amended by  
10 adding Subchapter C to read as follows:

11 SUBCHAPTER C. IMMIGRATION DETAINER REQUESTS

12 Sec. 752.051. DEFINITIONS. In this subchapter:

13 (1) "Immigration detainer request" means a federal  
14 government request to a local entity to maintain temporary custody  
15 of an alien, including a United States Department of Homeland  
16 Security Form I-247 document or a similar or successor form.

17 (2) "Local entity" means a municipality or county and  
18 includes a law enforcement agency under the jurisdiction of the  
19 municipality or county.

20 Sec. 752.052. PROHIBITION ON STATE GRANT FUNDS TO CERTAIN  
21 LOCAL ENTITIES. (a) Subject to Subsection (b), a local entity,  
22 including each entity under the jurisdiction of the local entity,  
23 may not be awarded state grant funds if:

24 (1) the local entity detains a person pursuant to and  
25 in furtherance of an immigration detainer request; and

26 (2) a final judicial determination is made that the  
27 detainer request or the local entity's detention of the person in

1 accordance with the detainer request violated the Texas  
2 Constitution or United States Constitution.

3 (b) The prohibition imposed by Subsection (a) applies only  
4 to the state fiscal year immediately following the fiscal year in  
5 which the final judicial determination described by Subsection  
6 (a)(2) is made.

7 (c) The comptroller shall adopt rules to implement this  
8 section uniformly among the state agencies from which state grant  
9 funds are distributed to local entities.

10 SECTION 4. (a) Except as provided by Subsection (b) of this  
11 section, this Act takes effect immediately if it receives a vote of  
12 two-thirds of all the members elected to each house, as provided by  
13 Section 39, Article III, Texas Constitution. If this Act does not  
14 receive the vote necessary for immediate effect, this Act takes  
15 effect December 1, 2017.

16 (b) Subchapter C, Chapter 752, Government Code, as added by  
17 this Act, takes effect December 1, 2017.