

By: Metcalf

H.B. No. 52

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the enforcement of state and federal laws governing  
3 immigration and the duties of law enforcement agencies concerning  
4 arrested persons and certain persons lawfully detained.

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 Articles 2.251 and 2.252 to read as follows:

8 Art. 2.251. ENFORCEMENT OF FEDERAL IMMIGRATION LAW. (a) A  
9 peace officer may not stop a motor vehicle or conduct a search of a  
10 business or residence solely to enforce a federal law relating to  
11 immigrants or immigration, including the federal Immigration and  
12 Nationality Act (8 U.S.C. Section 1101 et seq.), unless the officer  
13 is acting at the request of, and providing assistance to, an  
14 appropriate federal law enforcement officer.

15 (b) A peace officer may not, without a warrant, arrest a  
16 person based solely on the person's suspected or alleged violation  
17 of a civil provision of a federal law relating to immigrants or  
18 immigration, including the federal Immigration and Nationality Act  
19 (8 U.S.C. Section 1101 et seq.).

20 (c) A peace officer may arrest an undocumented person only  
21 if the officer is acting under the authority granted under Article  
22 2.13.

23 Art. 2.252. VERIFICATION OF IMMIGRATION STATUS OF ARRESTED  
24 PERSONS AND CERTAIN PERSONS LAWFULLY DETAINED. (a) A law

1 enforcement agency that has custody of an arrested person or of a  
2 person lawfully detained for the purpose of investigating whether  
3 the person committed a criminal offense shall verify the person's  
4 immigration status by using the federal Priority Enforcement  
5 Program operated by United States Immigration and Customs  
6 Enforcement or a successor program.

7 (b) A law enforcement agency is not required to perform the  
8 duties imposed by Subsection (a) with respect to a person who is  
9 transferred to the custody of the agency by another law enforcement  
10 agency if the transferring agency performed those duties before  
11 transferring custody of the person.

12 SECTION 2. Subtitle C, Title 11, Local Government Code, is  
13 amended by adding Chapter 364 to read as follows:

14 CHAPTER 364. ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS

15 Sec. 364.001. DEFINITIONS. In this chapter:

16 (1) "Immigration laws" means the laws of this state or  
17 federal law relating to immigrants or immigration, including the  
18 federal Immigration and Nationality Act (8 U.S.C. Section 1101 et  
19 seq.).

20 (2) "Local entity" means:

21 (A) the governing body of a municipality, county,  
22 or special district or authority, subject to Sections 364.002(a)  
23 and (b);

24 (B) an officer or employee of or a division,  
25 department, or other body that is part of a municipality, county, or  
26 special district or authority, including a sheriff, municipal  
27 police department, municipal attorney, or county attorney; and

1                   (C) a district attorney or criminal district  
2 attorney.

3           Sec. 364.002. APPLICABILITY OF CHAPTER. (a) This chapter  
4 does not apply to a school district or open-enrollment charter  
5 school. This chapter does not apply to the release of information  
6 contained in education records of an educational agency or  
7 institution, except in conformity with the Family Educational  
8 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

9           (b) This chapter does not apply to a hospital or hospital  
10 district.

11           Sec. 364.003. LOCAL GOVERNMENT POLICY REGARDING  
12 IMMIGRATION ENFORCEMENT. (a) A local entity may not adopt a rule,  
13 order, ordinance, or policy under which the entity prohibits the  
14 enforcement of immigration laws.

15           (b) In compliance with Subsection (a), a local entity may  
16 not prohibit a person who is employed by or otherwise under the  
17 direction or control of the entity from doing any of the following:

18                   (1) inquiring into the immigration status of an  
19 arrested person or of a person lawfully detained for the purpose of  
20 investigating whether the person committed a criminal offense;

21                   (2) with respect to information relating to the  
22 immigration status, lawful or unlawful, of any arrested person or  
23 of any person lawfully detained for the purpose of investigating  
24 whether the person committed a criminal offense:

25                           (A) sending the information to or requesting or  
26 receiving the information from United States Citizenship and  
27 Immigration Services or United States Immigration and Customs

1 Enforcement, including information regarding a person's place of  
2 birth;

3 (B) maintaining the information; or

4 (C) exchanging the information with another  
5 local entity or a federal or state governmental entity;

6 (3) assisting or cooperating with a federal  
7 immigration officer as reasonable and necessary, including  
8 providing enforcement assistance; or

9 (4) permitting a federal immigration officer to enter  
10 and conduct enforcement activities at a municipal or county jail to  
11 enforce federal immigration laws.

12 Sec. 364.004. DISCRIMINATION PROHIBITED. A local entity or  
13 a person employed by or otherwise under the direction or control of  
14 the entity may not consider race, color, language, or national  
15 origin while enforcing immigration laws.

16 Sec. 364.005. COMPLAINT; EQUITABLE RELIEF. (a) Any  
17 citizen residing in the jurisdiction of a local entity or an  
18 employee of a local entity may file a complaint with the attorney  
19 general if the citizen or employee offers evidence to support an  
20 allegation that the entity has adopted a rule, order, ordinance, or  
21 policy under which the entity prohibits the enforcement of  
22 immigration laws or that the entity, by consistent actions,  
23 prohibits the enforcement of immigration laws. The citizen or  
24 employee must include with the complaint the evidence the citizen  
25 or employee has that supports the complaint. An employee may file a  
26 complaint anonymously.

27 (b) A local entity may not retaliate against an employee for

1 filing a complaint under Subsection (a).

2 (c) If the attorney general determines that a complaint  
3 filed under Subsection (a) against a local entity is valid, the  
4 attorney general may file a petition for a writ of mandamus or apply  
5 for other appropriate equitable relief in a district court in  
6 Travis County or in a county in which the principal office of the  
7 entity is located to compel the entity to comply with Section  
8 364.003. The attorney general may recover reasonable expenses  
9 incurred in obtaining relief under this subsection, including court  
10 costs, reasonable attorney's fees, investigative costs, witness  
11 fees, and deposition costs.

12 (d) An appeal of a suit brought under Subsection (c) is  
13 governed by the procedures for accelerated appeals in civil cases  
14 under the Texas Rules of Appellate Procedure. The appellate court  
15 shall render its final order or judgment with the least possible  
16 delay.

17 Sec. 364.006. DENIAL OF STATE FUNDS. (a) A local entity  
18 may not receive state funds if the entity adopts a rule, order,  
19 ordinance, or policy under which the entity intentionally prohibits  
20 the enforcement of immigration laws or, by consistent actions,  
21 prohibits the enforcement of immigration laws.

22 (b) State funds for a local entity shall be denied for the  
23 state fiscal year following the year in which a final judicial  
24 determination in an action brought under Section 364.005 is made  
25 that the entity has intentionally prohibited the enforcement of  
26 immigration laws or, by consistent actions, prohibited the  
27 enforcement of immigration laws.

1           SECTION 3. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2017.