

By: Perry

S.B. No. 185

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(3) a district attorney or criminal district attorney.

(b) This section does not apply to a school district or open-enrollment charter school or a junior college district, except that this subsection does not exclude the application of this section to a commissioned peace officer employed or commissioned by a school district or open-enrollment charter school or a junior college district. This section does not apply to the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational

1 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

2 (c) This section does not apply to a hospital or hospital
3 district created under Subtitle C or D, Title 4, Health and Safety
4 Code, or a hospital district created under a general or special law
5 authorized by Article IX, Texas Constitution, to the extent that
6 the hospital or hospital district is providing access to or
7 delivering medical or health care services as required under the
8 following applicable federal or state laws:

9 (1) 42 U.S.C. Section 1395dd;

10 (2) 42 U.S.C. Section 1396b(v);

11 (3) Subchapter C, Chapter 61, Health and Safety Code;

12 (4) Chapter 81, Health and Safety Code; and

13 (5) Section 311.022, Health and Safety Code.

14 (d) Subsection (c) does not exclude the application of this
15 section to a commissioned peace officer employed by or commissioned
16 by a hospital or hospital district subject to Subsection (c).

17 (e) An entity described by Subsection (a) may not adopt a
18 rule, order, ordinance, or policy under which the entity prohibits
19 the enforcement of the laws of this state or federal law relating to
20 immigrants or immigration, including the federal Immigration and
21 Nationality Act (8 U.S.C. Section 1101 et seq.).

22 (f) In compliance with Subsection (e), an entity described
23 by Subsection (a) may not prohibit a person employed by or otherwise
24 under the direction or control of the entity from doing any of the
25 following:

26 (1) inquiring into the immigration status of a person
27 lawfully detained for the investigation of a criminal offense or

1 arrested;

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

5 (A) sending the information to or requesting or
6 receiving the information from United States Citizenship and
7 Immigration Services or United States Immigration and Customs
8 Enforcement, including information regarding a person's place of
9 birth;

10 (B) maintaining the information; or

11 (C) exchanging the information with another
12 federal, state, or local governmental entity;

13 (3) assisting or cooperating with a federal
14 immigration officer as reasonable and necessary, including
15 providing enforcement assistance; or

16 (4) permitting a federal immigration officer to enter
17 and conduct enforcement activities at a municipal or county jail to
18 enforce federal immigration laws.

19 (g) An entity described by Subsection (a) or a person
20 employed by or otherwise under the direction or control of the
21 entity may not consider race, color, language, or national origin
22 while enforcing the laws described by Subsection (e) except to the
23 extent permitted by the United States Constitution or the Texas
24 Constitution.

25 (h) An entity described by Subsection (a) may not receive
26 state grant funds if the entity adopts a rule, order, ordinance, or
27 policy under which the entity prohibits the enforcement of the laws

1 described by Subsection (e) or, by consistent actions, prohibits
2 the enforcement of those laws. State grant funds for the entity
3 shall be denied for the fiscal year following the year in which a
4 final judicial determination in an action brought under this
5 section is made that the entity has intentionally prohibited the
6 enforcement of the laws described by Subsection (e).

7 (i) Any citizen residing in the jurisdiction of an entity
8 described by Subsection (a) may file a complaint with the attorney
9 general if the citizen offers evidence to support an allegation
10 that the entity has adopted a rule, order, ordinance, or policy
11 under which the entity prohibits the enforcement of the laws
12 described by Subsection (e) or that the entity, by consistent
13 actions, prohibits the enforcement of those laws. The citizen must
14 include with the complaint the evidence the citizen has that
15 supports the complaint.

16 (j) If the attorney general determines that a complaint
17 filed under Subsection (i) against an entity described by
18 Subsection (a) is valid, the attorney general may file a petition
19 for a writ of mandamus or apply for other appropriate equitable
20 relief in a district court in Travis County or in a county in which
21 the principal office of an entity described by Subsection (a) is
22 located to compel the entity that adopts a rule, order, ordinance,
23 or policy under which the local entity prohibits the enforcement of
24 the laws described by Subsection (e) or that, by consistent
25 actions, prohibits the enforcement of those laws to comply with
26 Subsection (e). The attorney general may recover reasonable
27 expenses incurred in obtaining relief under this subsection,

1 including court costs, reasonable attorney's fees, investigative
2 costs, witness fees, and deposition costs.

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

8 SECTION 2. The heading to Chapter 370, Local Government
9 Code, is amended to read as follows:

10 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~
11 ~~AND COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE
12 TYPE OF LOCAL GOVERNMENT

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