



SUMMARY OF TEXAS SENATE BILL 4

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On May 7, 2017, Texas Governor Greg Abbott signed [Senate Bill 4 \(S.B. 4\)](#), which is set to go into effect on September 1, 2017. This "show me your papers" law [encourages unacceptable](#) profiling of people based on immigration status and will undermine the public safety of local communities.¹ The bill:

- Forces local law enforcement officers in Texas to honor federal ICE detainers, which federal courts have already concluded put local jurisdictions at risk of legal liability for violating the Fourth Amendment.
- Undermines localities' authority to keep their own communities safe by imposing stiff penalties – including jail time and removal from office – if a local official refuses to honor a detainer or to participate in federal immigration enforcement.
- Forbids local jurisdictions and campus police departments from establishing policies that prevent local officials from inquiring about community member's immigration status.

A [lawsuit over the legality](#) of SB4 has already been filed in the U.S. District Court for the Western District of Texas. These kinds of destructive policies make us [less safe](#) and put fundamental rights and values at risk.

SECTION-BY-SECTION

ARTICLE 1. POLICIES OF AND GRANT PROGRAMS FOR LOCAL ENTITIES AND CAMPUS POLICE DEPARTMENTS

Section 1.01. Chapter 752, Government Code, is amended by adding Subchapter C. Enforcement of State and Federal Immigration Laws by Local Entities and Campus Police Departments.

- **Sec. 752.0151. Definitions:** This section defines particular terms, including the following:
 - The term "Campus police department" means a law enforcement agency of an institution of higher education.
 - "Immigration laws" means the laws of this state or federal law relating to aliens, immigrants, or immigration, including the federal Immigration and Nationality Act (INA).
 - "Institution of higher education" means an institution of higher education as defined by Section 61.003, Education Code; or a private or independent institution of higher education as defined by Section 61.003, Education Code.

¹ For a comparison between Arizona's SB1070 and Texas's SB4, see <http://immigrationforum.org/wp-content/uploads/2017/05/Texas-SB-4-AZ-SB-1070-Comparison-Chart.pdf>.

- “Lawful Detention” means the detention of an individual by a local entity, state criminal justice agency, or campus police department for the investigation of a criminal offense. This term excludes a detention if the sole reason for the detention is that the individual is a victim of or witness to a criminal offense or if the individual is reporting a criminal offense.
 - The term “Local Entity” means: (A) the governing body of a municipality, county, or special district or authority, subject to Section 752.052; (B) an officer or employee of or a division, department, 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 (C) a district attorney or criminal district attorney.
 - “Policy” includes a formal, written rule, order, ordinance, or policy and an informal, unwritten policy.
- **Sec. 752.052. Applicability of subchapter.** This section creates certain exceptions for the following institutions and/or peace officers employed by these institutions: hospitals, religious organizations, school districts and open-enrollment charter schools, public health departments, community centers, and mental health authorities.
 - **Sec. 752.053. Policies and Actions Regarding Immigration Enforcement.** This section prohibits local entities from limiting cooperation with federal immigration agencies, by:
 - Barring entities from limiting the “enforcement of immigration laws,” either through the explicit adoption, enforcement, or endorsement of policies or as demonstrated through pattern and practice.
 - Forbids local entities/campus police from limiting officials’ ability to:
 - Ask the immigration status of someone who is under a lawful detention or under arrest;
 - Request/share that immigration status with USCIS, ICE or another federal agency;
 - Maintain information relating to the immigration status of that person;
 - Exchange information relating to immigration status with another local entity, campus police department, or a federal or state governmental entity;
 - Assist federal immigration officers, including providing enforcement assistance;
 - Permit a federal immigration officer to enter jails.
 - Allows for an exception for assistance/cooperation that would take place at a place of worship.
 - **Sec. 752.054. Discrimination Prohibited.** Local entities and campus police departments may not consider race, color, religion, language, or national origin while enforcing immigration laws, except as provided in the state constitution or U.S. Constitution.
 - **Sec. 752.055. Complaint; Equitable Relief.** Any citizen that resides in a local entity’s jurisdiction or enrolled at an institution of higher education may file a complaint with the attorney general (AG) if the person alleges a violation of Section 752.053. The AG can then file a mandamus to enforce the provisions.
 - **Sec. 752.056. Civil Penalty.** A local entity or campus police department that is found to have intentionally violated Section 752.053 is subject to a civil penalty between \$1,000 and \$1,500 for the first violation and between \$25,000 and \$25,500 for each subsequent violation. Note that each day of continuing violation constitutes a separate violation.

- **Sec. 752.0565. Removal from Office.** If a person holding an elective or appointive office violates 752.053, they can be removed from office. If the AG is presented with evidence that a public officer committed a violation, the AG “shall” file a petition against the. If the individual is found guilty, the court will enter a judgement removing that person from office.
- **Sec. 752.057. Community Outreach Policy.** Each agency subject to the requirements of this bill “may” adopt a written policy requiring the agency to perform community outreach in order to educate the public that a peace officer may not inquire into the immigration status of a victim or witness to an alleged criminal offense. However, if the officer determines that the inquiry is necessary to (1) investigate the offense or (2) provide the victim or witness with information about visas designed to protect individuals providing assistance to law enforcement, the officer is permitted to inquire about the victim or witnesses immigration status. Policies adopted under this section must include outreach to the victims of family violence and sexual assault.

Section 1.02. Subchapter A, Chapter 772, Government Code, is amended by adding Section 772.0073.

- **Sec. 772.0073: Enforcement of Immigration Law Grant Program.** This section:
 - Defines the terms: “Criminal Justice Division”, “Immigration detainer request”, “Immigration Laws”, and “Local Entity.”
 - Provides that a grant program be administered to provide financial assistance to local entities to offset costs related to enforcing immigration laws and complying with, honoring, or fulfilling immigration detainer requests. It also directs the criminal justice division to establish criteria and procedures related to the grants.

ARTICLE 2. DUTIES OF LAW ENFORCEMENT AGENCIES AND JUDGES

Section 2.01. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.251.

- **Article 2.251. Duties Related to Immigration Detainer Requests.** This section requires a law enforcement agency that has custody of a person subject to an ICE immigration detainer request to comply with *any* request in the detainer and to inform the person that they are being held pursuant to an ICE immigration detainer request. A law enforcement agency is not required to perform this duty imposed if the individual in custody has provided proof of U.S. citizenship or lawful immigration status.

Section 2.02. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.039.

- **Article 42.039: Completion of Sentence in Federal Custody.** Ensures transfer of criminal defendants to federal custody at the conclusion of their sentence when there is a detainer request. Directs judges to issue order, at the time of sentence of confinement, requiring the defendant to serve the final portion of the defendant’s sentence in federal custody (not to exceed 7 days). If the defendant becomes subject to an immigration detainer request after the time sentence has been pronounced in the case, the judge retains jurisdiction for purposes of issuing the order.

ARTICLE 3. DEFENSE OF LOCAL ENTITIES IN SUITS RELATED TO IMMIGRATION DETAINER REQUESTS

Section 3.01. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.0241.

- **Section 402.0241: Defense of Local Entities in Suits Related to Immigration Detainer Requests.** Directs the AG to defend local entities in any court action involving the local entities good-faith compliance with an immigration detainer request.

ARTICLE 4. SURETY BOND

Section 4.01 Article 17.16, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (a-1). This section appears to deter bail bond companies from providing bond to individuals who may be identified as not lawfully present in the United States.

ARTICLE 5. PROHIBITED CONDUCT BY SHERIFF OR CONSTABLE

Section 5.01. Section 87.031, Local Government Code, is amended by adding Subsection (c). This section provides that “a misdemeanor involving official misconduct” now includes a misdemeanor under Section 39.07, Penal Code.

Section 5.02. Chapter 39, Penal Code, is amended by adding Section 39.07

- **Section 39.07: Failure to Comply with Immigration Detainer Request.** This section makes it a Class A misdemeanor for a sheriff, chief of police, or constable, or a person who is otherwise has primary authority for administering a jail to “knowingly” fail to comply with a detainer request, unless the individual provided proof of U.S. citizenship or lawful immigration status.

ARTICLE 6. INQUIRY BY PEACE OFFICER REGARDING IMMIGRATION OR NATIONALITY OF CRIME VICTIM OR WITNESS

Section 6.01. Article 2.13, Code of Criminal Procedure, is amended by adding Subsections (d) and (e). Allows officers to ask about the nationality or immigration status of a victim or witness if it is necessary to investigate an offense, or provide the victim or witness with information about federal visas designed to protect individuals with providing assistance to law enforcement.

ARTICLE 7. SEVERABILITY AND EFFECTIVE DATE

Section 7.01. Every provision, section, subsection, sentence, clause, phrase, or word in this Act, and every application of the provisions in this Act to each person or entity are severable from each other.

Section 7.02. This act takes effect on September 1, 2017.