

By: Solomons, Bohac, Harless, et al.

H.B. No. 12

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the enforcement of state and federal laws governing
3 immigration by certain governmental entities.

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

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

7 Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING
8 ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This
9 section applies to:

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

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

17 (3) a district attorney or criminal district attorney.

18 (b) This section does not apply to a school district or
19 open-enrollment charter school or a junior college district, except
20 that this subsection does not exclude the application of this
21 section to a commissioned peace officer employed or commissioned by
22 a school district or open-enrollment charter school or a junior
23 college district. This section does not apply to the release of
24 information contained in education records of an educational agency

1 or institution, except in conformity with the Family Educational
2 Rights and Privacy Act of 1974, Section 513, Pub. L. No. 93-380 (20
3 U.S.C. Section 1232g).

4 (b-1) This section does not apply to a hospital or hospital
5 district created under Subtitle C or D, Title 4, Health and Safety
6 Code, or a hospital district created under a general or special law
7 authorized by Article IX, Texas Constitution, to the extent that
8 the hospital or hospital district is providing access to or
9 delivering medical or health care services as required under the
10 following applicable federal or state laws:

11 (1) 42 U.S.C. Section 1395dd;

12 (2) 42 U.S.C. Section 1396b(v);

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

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

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

16 (b-2) Subsection (b-1) does not exclude the application of
17 this section to a commissioned peace officer employed by or
18 commissioned by a hospital or hospital district subject to
19 Subsection (b-1).

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

25 (d) In compliance with Subsection (c), an entity described
26 by Subsection (a) may not prohibit a person employed by or otherwise
27 under the direction or control of the entity from doing any of the

1 following:

2 (1) inquiring into the immigration status of a person
3 lawfully detained for the investigation of a criminal offense or
4 arrested;

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

8 (A) sending the information to or requesting or
9 receiving the information from United States Citizenship and
10 Immigration Services or United States Immigration and Customs
11 Enforcement, including information regarding an individual's place
12 of birth;

13 (B) maintaining the information; or

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

16 (3) assisting or cooperating with a federal
17 immigration officer as reasonable and necessary, including
18 providing enforcement assistance; or

19 (4) permitting a federal immigration officer to enter
20 and conduct enforcement activities at a municipal or county jail to
21 enforce federal immigration laws.

22 (d-1) An entity described by Subsection (a) or a person
23 employed by or otherwise under the direction or control of the
24 entity may not consider race, color, language, or national origin
25 while enforcing the laws described by Subsection (c) except to the
26 extent permitted by the United States Constitution or the Texas
27 Constitution.

1 (e) An entity described by Subsection (a) may not receive
2 state grant funds if the entity adopts a rule, order, ordinance, or
3 policy under which the entity prohibits the enforcement of the laws
4 of this state or federal laws relating to Subsection (c) or, by
5 consistent actions, prohibits the enforcement of the laws of this
6 state or federal laws relating to Subsection (c). State grant funds
7 for the entity shall be denied for the fiscal year following the
8 year in which a final judicial determination in an action brought
9 under this section is made that the entity has intentionally
10 prohibited the enforcement of the laws of this state or federal laws
11 relating to Subsection (c).

12 (f) Any citizen residing in the jurisdiction of an entity
13 described by Subsection (a) may file a complaint with the attorney
14 general if the citizen offers evidence to support an allegation
15 that the entity has adopted a rule, order, ordinance, or policy
16 under which the entity prohibits the enforcement of the laws of this
17 state or federal laws relating to Subsection (c) or that, by
18 consistent actions, prohibits the enforcement of the laws of this
19 state or federal laws relating to Subsection (c). The citizen must
20 include with the complaint the evidence the citizen has that
21 supports the complaint.

22 (g) If the attorney general determines that a complaint
23 filed under Subsection (f) against an entity described by
24 Subsection (a) is valid, the attorney general may file a petition
25 for a writ of mandamus or apply for other appropriate equitable
26 relief in a district court in Travis County or in a county in which
27 the principal office of an entity described by Subsection (a) is

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

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

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

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

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2011.