

1-1 By: Solomons, et al. (Senate Sponsor - Williams) H.B. No. 12
1-2 (In the Senate - Received from the House May 11, 2011;
1-3 May 11, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 21, 2011, reported
1-5 favorably by the following vote: Yeas 5, Nays 4; May 21, 2011, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the enforcement of state and federal laws governing
1-10 immigration by certain governmental entities.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 370, Local Government Code, is amended
1-13 by adding Section 370.0031 to read as follows:

1-14 Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING
1-15 ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This
1-16 section applies to:

1-17 (1) the governing body of a municipality, county, or
1-18 special district or authority, subject to Subsections (b) and
1-19 (b-1);

1-20 (2) an officer, employee, or other body that is part of
1-21 a municipality, county, or special district or authority, including
1-22 a sheriff, municipal police department, municipal attorney, or
1-23 county attorney; and

1-24 (3) a district attorney or criminal district attorney.

1-25 (b) This section does not apply to a school district or
1-26 open-enrollment charter school or a junior college district, except
1-27 that this subsection does not exclude the application of this
1-28 section to a commissioned peace officer employed or commissioned by
1-29 a school district or open-enrollment charter school or a junior
1-30 college district. This section does not apply to the release of
1-31 information contained in education records of an educational agency
1-32 or institution, except in conformity with the Family Educational
1-33 Rights and Privacy Act of 1974, Section 513, Pub. L. No. 93-380 (20
1-34 U.S.C. Section 1232g).

1-35 (b-1) This section does not apply to a hospital or hospital
1-36 district created under Subtitle C or D, Title 4, Health and Safety
1-37 Code, or a hospital district created under a general or special law
1-38 authorized by Article IX, Texas Constitution, to the extent that
1-39 the hospital or hospital district is providing access to or
1-40 delivering medical or health care services as required under the
1-41 following applicable federal or state laws:

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

1-43 (2) 42 U.S.C. Section 1396b(v);

1-44 (3) Subchapter C, Chapter 61, Health and Safety Code;

1-45 (4) Chapter 81, Health and Safety Code; and

1-46 (5) Section 311.022, Health and Safety Code.

1-47 (b-2) Subsection (b-1) does not exclude the application of
1-48 this section to a commissioned peace officer employed by or
1-49 commissioned by a hospital or hospital district subject to
1-50 Subsection (b-1).

1-51 (c) An entity described by Subsection (a) may not adopt a
1-52 rule, order, ordinance, or policy under which the entity prohibits
1-53 the enforcement of the laws of this state or federal law relating to
1-54 immigrants or immigration, including the federal Immigration and
1-55 Nationality Act (8 U.S.C. Section 1101 et seq.).

1-56 (d) In compliance with Subsection (c), an entity described
1-57 by Subsection (a) may not prohibit a person employed by or otherwise
1-58 under the direction or control of the entity from doing any of the
1-59 following:

1-60 (1) inquiring into the immigration status of a person
1-61 lawfully detained for the investigation of a criminal offense or
1-62 arrested;

1-63 (2) with respect to information relating to the
1-64 immigration status, lawful or unlawful, of any person lawfully

2-1 detained for the investigation of a criminal offense or arrested:
 2-2 (A) sending the information to or requesting or
 2-3 receiving the information from United States Citizenship and
 2-4 Immigration Services or United States Immigration and Customs
 2-5 Enforcement, including information regarding an individual's place
 2-6 of birth;

2-7 (B) maintaining the information; or
 2-8 (C) exchanging the information with another
 2-9 federal, state, or local governmental entity;

2-10 (3) assisting or cooperating with a federal
 2-11 immigration officer as reasonable and necessary, including
 2-12 providing enforcement assistance; or

2-13 (4) permitting a federal immigration officer to enter
 2-14 and conduct enforcement activities at a municipal or county jail to
 2-15 enforce federal immigration laws.

2-16 (d-1) An entity described by Subsection (a) or a person
 2-17 employed by or otherwise under the direction or control of the
 2-18 entity may not consider race, color, language, or national origin
 2-19 while enforcing the laws described by Subsection (c) except to the
 2-20 extent permitted by the United States Constitution or the Texas
 2-21 Constitution.

2-22 (e) An entity described by Subsection (a) may not receive
 2-23 state grant funds if the entity adopts a rule, order, ordinance, or
 2-24 policy under which the entity prohibits the enforcement of the laws
 2-25 of this state or federal laws relating to Subsection (c) or, by
 2-26 consistent actions, prohibits the enforcement of the laws of this
 2-27 state or federal laws relating to Subsection (c). State grant funds
 2-28 for the entity shall be denied for the fiscal year following the
 2-29 year in which a final judicial determination in an action brought
 2-30 under this section is made that the entity has intentionally
 2-31 prohibited the enforcement of the laws of this state or federal laws
 2-32 relating to Subsection (c).

2-33 (f) Any citizen residing in the jurisdiction of an entity
 2-34 described by Subsection (a) may file a complaint with the attorney
 2-35 general if the citizen offers evidence to support an allegation
 2-36 that the entity has adopted a rule, order, ordinance, or policy
 2-37 under which the entity prohibits the enforcement of the laws of this
 2-38 state or federal laws relating to Subsection (c) or that, by
 2-39 consistent actions, prohibits the enforcement of the laws of this
 2-40 state or federal laws relating to Subsection (c). The citizen must
 2-41 include with the complaint the evidence the citizen has that
 2-42 supports the complaint.

2-43 (g) If the attorney general determines that a complaint
 2-44 filed under Subsection (f) against an entity described by
 2-45 Subsection (a) is valid, the attorney general may file a petition
 2-46 for a writ of mandamus or apply for other appropriate equitable
 2-47 relief in a district court in Travis County or in a county in which
 2-48 the principal office of an entity described by Subsection (a) is
 2-49 located to compel the entity that adopts a rule, order, ordinance,
 2-50 or policy under which the local entity prohibits the enforcement of
 2-51 the laws of this state or federal laws relating to Subsection (c) or
 2-52 that, by consistent actions, prohibits the enforcement of the laws
 2-53 of this state or federal laws relating to Subsection (c) to comply
 2-54 with Subsection (c). The attorney general may recover reasonable
 2-55 expenses incurred in obtaining relief under this subsection,
 2-56 including court costs, reasonable attorney's fees, investigative
 2-57 costs, witness fees, and deposition costs.

2-58 (h) An appeal of a suit brought under Subsection (g) is
 2-59 governed by the procedures for accelerated appeals in civil cases
 2-60 under the Texas Rules of Appellate Procedure. The appellate court
 2-61 shall render its final order or judgment with the least possible
 2-62 delay.

2-63 SECTION 2. The heading to Chapter 370, Local Government
 2-64 Code, is amended to read as follows:

2-65 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [MUNICIPAL
 2-66 AND COUNTY] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE
 2-67 TYPE OF LOCAL GOVERNMENT

2-68 SECTION 3. This Act takes effect immediately if it receives
 2-69 a vote of two-thirds of all the members elected to each house, as

3-1 provided by Section 39, Article III, Texas Constitution. If this
3-2 Act does not receive the vote necessary for immediate effect, this
3-3 Act takes effect September 1, 2011.

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