

1-1 By: Perry, Campbell, Hall S.B. No. 185
1-2 (In the Senate - Filed November 17, 2014; January 27, 2015,
1-3 read first time and referred to Subcommittee on Border Security;
1-4 April 6, 2015, reported adversely, with favorable Committee
1-5 Substitute to Committee on Veteran Affairs and Military
1-6 Installations; April 13, 2015, reported adversely, with favorable
1-7 Committee Substitute by the following vote: Yeas 4, Nays 3;
1-8 April 13, 2015, sent to printer.)

1-9 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Campbell	X			
Burton	X			
Birdwell	X			
Garcia		X		
Hall	X			
Lucio		X		
Rodríguez		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 185 By: Birdwell

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the enforcement of state and federal laws governing
1-22 immigration by certain governmental entities.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 370, Local Government Code, is amended
1-25 by adding Section 370.0031 to read as follows:

1-26 Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING
1-27 ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This

1-28 section applies to the following entities:

1-29 (1) the governing body of a municipality, county, or
1-30 special district or authority, subject to Subsections (b) and (c);
1-31 (2) an officer, employee, or other body that is part of
1-32 a municipality, county, or special district or authority, including
1-33 a sheriff, municipal police department, municipal attorney, or
1-34 county attorney; and

1-35 (3) a district attorney or criminal district attorney.

1-36 (b) This section does not apply to a school district or
1-37 open-enrollment charter school. This section does not apply to the
1-38 release of information contained in education records of an
1-39 educational agency or institution, except in conformity with the
1-40 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
1-41 Section 1232g).

1-42 (c) This section does not apply to a hospital or hospital
1-43 district created under Subtitle C or D, Title 4, Health and Safety
1-44 Code, or a hospital district created under a general or special law
1-45 authorized by Article IX, Texas Constitution, to the extent that
1-46 the hospital or hospital district is providing access to or
1-47 delivering medical or health care services as required under the
1-48 following applicable federal or state laws:

1-49 (1) 42 U.S.C. Section 1395dd;
1-50 (2) 42 U.S.C. Section 1396b(v);
1-51 (3) Subchapter C, Chapter 61, Health and Safety Code;
1-52 (4) Chapter 81, Health and Safety Code; and
1-53 (5) Section 311.022, Health and Safety Code.

1-54 (d) Subsection (c) does not exclude the application of this
1-55 section to a commissioned peace officer employed by or commissioned
1-56 by a hospital or hospital district subject to Subsection (c).

1-57 (e) An entity described by Subsection (a) shall not adopt a
1-58 rule, order, ordinance, or policy under which the entity prohibits
1-59 the enforcement of the laws of this state or federal law relating to
1-60 immigrants or immigration, including the federal Immigration and

2-1 Nationality Act (8 U.S.C. Section 1101 et seq.).

2-2 (f) In compliance with Subsection (e), an entity described
2-3 by Subsection (a) shall not prohibit a person who is a commissioned
2-4 peace officer described by Article 2.12, Code of Criminal
2-5 Procedure, a corrections officer, a booking clerk, a magistrate, or
2-6 a district attorney, criminal district attorney, or other
2-7 prosecuting attorney and who is employed by or otherwise under the
2-8 direction or control of the entity from doing any of the following:

2-9 (1) inquiring into the immigration status of a person
2-10 lawfully detained for the investigation of a criminal offense or
2-11 arrested;

2-12 (2) with respect to information relating to the
2-13 immigration status, lawful or unlawful, of any person lawfully
2-14 detained for the investigation of a criminal offense or arrested:

2-15 (A) sending the information to or requesting or
2-16 receiving the information from United States Citizenship and
2-17 Immigration Services or United States Immigration and Customs
2-18 Enforcement, including information regarding a person's place of
2-19 birth;

2-20 (B) maintaining the information; or

2-21 (C) exchanging the information with another
2-22 federal, state, or local governmental entity;

2-23 (3) assisting or cooperating with a federal
2-24 immigration officer as reasonable and necessary, including
2-25 providing enforcement assistance; or

2-26 (4) permitting a federal immigration officer to enter
2-27 and conduct enforcement activities at a municipal or county jail to
2-28 enforce federal immigration laws.

2-29 (f-1) For purposes of Subsection (f), a person is not
2-30 considered lawfully detained if the sole reason for the detention
2-31 is that the person is:

2-32 (1) a victim of or witness to a criminal offense; or

2-33 (2) reporting a criminal offense.

2-34 (g) An entity described by Subsection (a) or a person
2-35 employed by or otherwise under the direction or control of the
2-36 entity may not consider race, color, language, or national origin
2-37 while enforcing the laws described by Subsection (e) except to the
2-38 extent permitted by the United States Constitution or the Texas
2-39 Constitution.

2-40 (h) Any citizen residing in the jurisdiction of an entity
2-41 described by Subsection (a) may file a complaint with the attorney
2-42 general if the citizen offers evidence to support an allegation
2-43 that the entity has adopted a rule, order, ordinance, or policy
2-44 under which the entity prohibits the enforcement of the laws
2-45 described by Subsection (e) or that the entity, by consistent
2-46 actions, prohibits the enforcement of those laws. The citizen must
2-47 include with the complaint the evidence the citizen has that
2-48 supports the complaint.

2-49 (i) If the attorney general determines that a complaint
2-50 filed under Subsection (h) against an entity described by
2-51 Subsection (a) is valid, the attorney general shall, not later than
2-52 the 10th day after the date of the determination, provide written
2-53 notification to the entity that:

2-54 (1) the complaint has been filed;

2-55 (2) the attorney general has determined that the
2-56 complaint is valid;

2-57 (3) the attorney general is authorized to file an
2-58 action to enjoin the violation if the entity does not come into
2-59 compliance with the requirements of this section on or before the
2-60 90th day after the date the notification is provided; and

2-61 (4) the entity will be denied state funds for the state
2-62 fiscal year following the year in which a final judicial
2-63 determination in an action brought under Subsection (j) is made.

2-64 (j) If the attorney general determines that a complaint
2-65 filed under Subsection (h) against an entity described by
2-66 Subsection (a) is valid, the attorney general may file a petition
2-67 for a writ of mandamus or apply for other appropriate equitable
2-68 relief in a district court in Travis County or in a county in which
2-69 the principal office of an entity described by Subsection (a) is

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

3-9 (k) An appeal of a suit brought under Subsection (j) is
3-10 governed by the procedures for accelerated appeals in civil cases
3-11 under the Texas Rules of Appellate Procedure. The appellate court
3-12 shall render its final order or judgment with the least possible
3-13 delay.

3-14 (l) An entity described by Subsection (a) may not receive
3-15 state funds if the entity adopts a rule, order, ordinance, or policy
3-16 under which the entity prohibits the enforcement of the laws
3-17 described by Subsection (e) or, by consistent actions, prohibits
3-18 the enforcement of those laws. State funds for the entity shall be
3-19 denied for the state fiscal year following the year in which a final
3-20 judicial determination in an action brought under Subsection (j) is
3-21 made that the entity has intentionally prohibited the enforcement
3-22 of the laws described by Subsection (e). The comptroller shall
3-23 adopt rules to implement this subsection uniformly among the state
3-24 agencies from which state funds are distributed to a municipality
3-25 or county.

3-26 (m) An entity described by Subsection (a) that complies with
3-27 this section may not be denied state funds, regardless of whether
3-28 the entity is a part of another entity that is in violation of this
3-29 section.

3-30 SECTION 2. The heading to Chapter 370, Local Government
3-31 Code, is amended to read as follows:

3-32 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [MUNICIPAL
3-33 AND COUNTY] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE
3-34 TYPE OF LOCAL GOVERNMENT

3-35 SECTION 3. This Act takes effect immediately if it receives
3-36 a vote of two-thirds of all the members elected to each house, as
3-37 provided by Section 39, Article III, Texas Constitution. If this
3-38 Act does not receive the vote necessary for immediate effect, this
3-39 Act takes effect September 1, 2015.

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