

1-1 By: Bell of Montgomery, et al. H.B. No. 796
1-2 (Senate Sponsor - King)
1-3 (In the Senate - Received from the House May 7, 2025;
1-4 May 13, 2025, read first time and referred to Committee on State
1-5 Affairs; May 27, 2025, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 8, Nays 2;
1-7 May 27, 2025, sent to printer.)

1-8 COMMITTEE VOTE

1-9		Yea	Nay	Absent	PNV
1-10	Hughes	X			
1-11	Paxton	X			
1-12	Bettencourt	X			
1-13	Birdwell	X			
1-14	Hall		X		
1-15	Hinojosa of Nueces	X			
1-16	Middleton	X			
1-17	Parker	X			
1-18	Perry			X	
1-19	Schwertner	X			
1-20	Zaffirini		X		

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 796 By: Birdwell

1-22 A BILL TO BE ENTITLED
1-23 AN ACT

1-24 relating to the authority of the legislature to determine that
1-25 certain federal directives are unconstitutional and to prohibit
1-26 certain government officers and employees from enforcing or
1-27 assisting in the enforcement of the directive.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Subtitle Z, Title 3, Government Code, is amended
1-30 by adding Chapter 394 to read as follows:

1-31 CHAPTER 394. UNCONSTITUTIONAL FEDERAL DIRECTIVES

1-32 Sec. 394.001. DEFINITIONS. In this chapter:

1-33 (1) "Federal agency" means a department, agency,
1-34 authority, commission, council, board, office, bureau, or other
1-35 administrative unit of the executive branch of the United States.

1-36 (2) "Federal directive" means:

1-37 (A) a federal law;

1-38 (B) an executive order of the president of the
1-39 United States; or

1-40 (C) a federal agency rule, policy, order, or
1-41 standard.

1-42 (3) "Government officer or employee" means:

1-43 (A) an elected or appointed officer of this state
1-44 or a political subdivision, other than the lieutenant governor or a
1-45 member of the legislature;

1-46 (B) an employee of this state or a political
1-47 subdivision, other than an employee of the lieutenant governor or
1-48 of a member of the legislature; or

1-49 (C) a member of the governing body of an
1-50 open-enrollment charter school or an officer or employee of the
1-51 school.

1-52 (4) "Political subdivision" means a county,
1-53 municipality, school district, junior college district, special
1-54 district, or other subdivision of state government.

1-55 (5) "Unconstitutional federal directive" means a
1-56 federal directive that:

1-57 (A) infringes on a power or right reserved to the
1-58 state by the Tenth Amendment to the United States Constitution; or

1-59 (B) prohibits or limits the ability of this state
1-60 to:

(i) provide for the health, safety, and welfare of the people of this state; or
 (ii) promote the prosperity of the people of this state.

Sec. 394.002. LEGISLATIVE AUTHORITY. (a) The legislature by concurrent resolution may:

(1) determine that a federal directive is an unconstitutional federal directive; and

(2) prohibit a government officer or employee from enforcing or assisting in the enforcement of the unconstitutional federal directive.

(b) This section does not apply to a federal directive that activates the state military forces as defined by Section 431.001.

Sec. 394.003. REQUIREMENTS TO FILE RESOLUTION. A member of the legislature may not file a concurrent resolution described by Section 394.002 unless the filing is approved by a vote of two-thirds of the members present in the house in which the member seeks to file the resolution.

Sec. 394.004. CONTENTS OF RESOLUTION. The legislature may not adopt a concurrent resolution described by Section 394.002 unless the resolution:

(1) identifies the federal directive that the legislature determines is an unconstitutional federal directive;

(2) explains the basis for the legislature's determination;

(3) specifies whether a government officer or employee is prohibited from enforcing or assisting in the enforcement of the directive, including specific activities or forms of assistance that the officer or employee may not engage in;

(4) specifies the government officers or employees to whom the concurrent resolution applies, as applicable; and

(5) specifies any other requirement the legislature considers appropriate to impose on a government officer or employee in order to comply with the legislature's determination.

Sec. 394.005. VOTE REQUIREMENT IN CONCURRING HOUSE. A house of the legislature may not adopt a concurrent resolution described by Section 394.002 filed and adopted by the other house without a vote of two-thirds of the members of the house seeking to concur with the other house on the adoption of the resolution.

Sec. 394.006. REPEAL OF RESOLUTION. The legislature may repeal a concurrent resolution adopted under this chapter only by concurrent resolution filed and adopted in the manner prescribed for the adoption of the resolution being repealed.

Sec. 394.007. LEGISLATIVE INACTION. The fact that the legislature has not considered whether a federal directive is an unconstitutional federal directive under this chapter does not:

(1) imply or create a presumption that the directive is constitutional; or

(2) limit the authority of the attorney general to challenge the constitutionality of the directive.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

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