

BILL ANALYSIS

Senate Research Center

H.B. 12
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Transportation & Homeland Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a city may adopt policies, commonly referred to as "sanctuary city" policies, that prohibit local law enforcement from inquiring about a person's immigration status. These policies may also prohibit the sharing of information regarding a person's immigration status with the federal government. H.B. 12 addresses public concern that a city, or other local government entity, may create a sanctuary for illegal immigrants by impeding the enforcement of state and federal immigration law. The bill seeks to address public concern by prohibiting certain local government entities from undertaking certain actions that would restrict the enforcement of state and federal immigration law and by allowing the filing of a related citizen complaint.

H.B. 12 amends current law relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 370, Local Government Code, by adding Section 370.0031, as follows:

Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) Provides that this section applies to:

- (1) the governing body of a municipality, county, or special district or authority, subject to Subsections (b) and (b-1);
- (2) an officer, employee, 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
- (3) a district attorney or criminal district attorney.

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

(b-1) Provides that this section does not apply to a hospital or hospital district created under Subtitle C (Local Hospitals) or D (Hospital Districts), Title 4

(Health Facilities), Health and Safety Code, or a hospital district created under a general or special law authorized by Article IX (Counties), Texas Constitution, to the extent that the hospital or hospital district is providing access to or delivering medical or health care services as required under the following applicable federal or state laws:

- (1) 42 U.S.C. Section 1395dd;
- (2) 42 U.S.C. Section 1396b(v);
- (3) Subchapter C (Persons Who Reside in an Area Served by a Public Hospital or Hospital District), Chapter 61 (Indigent Health Care and Treatment Act), Health and Safety Code;
- (4) Chapter 81 (Communicable Diseases), Health and Safety Code; and
- (5) Section 311.022 (Discrimination Prohibited in Denial of Services; Criminal Penalties), Health and Safety Code.

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

(c) Prohibits an entity described by Subsection (a) from adopting a rule, order, ordinance, or policy under which the entity prohibits the enforcement of the laws of this state or federal law relating to immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

(d) Prohibits an entity described by Subsection (a), in compliance with Subsection (c), from prohibiting a person employed by or otherwise under the direction or control of the entity from doing any of the following:

- (1) inquiring into the immigration status of a person lawfully detained for the investigation of a criminal offense or arrested;
- (2) with respect to information relating to the immigration status, lawful or unlawful, of any person lawfully detained for the investigation of a criminal offense or arrested:
 - (A) sending the information to or requesting or receiving the information from United States Citizenship and Immigration Services or United States Immigration and Customs Enforcement, including information regarding an individual's place of birth;
 - (B) maintaining the information; or
 - (C) exchanging the information with another federal, state, or local governmental entity;
- (3) assisting or cooperating with a federal immigration officer as reasonable and necessary, including providing enforcement assistance; or
- (4) permitting a federal immigration officer to enter and conduct enforcement activities at a municipal or county jail to enforce federal immigration laws.

(d-1) Prohibits an entity described by Subsection (a) or a person employed by or otherwise under the direction or control of the entity from considering race, color, language, or national origin while enforcing the laws described by Subsection (c)

except to the extent permitted by the United States Constitution or the Texas Constitution.

(e) Prohibits an entity described by Subsection (a) from receiving state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) or, by consistent actions, prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c). Requires that state grant funds for the entity be denied for the fiscal year following the year in which a final judicial determination in an action brought under this section is made that the entity has intentionally prohibited the enforcement of the laws of this state or federal laws relating to Subsection (c).

(f) Authorizes any citizen residing in the jurisdiction of an entity described by Subsection (a) to file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) or that, by consistent actions, prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c). Requires that the citizen include with the complaint the evidence the citizen has that supports the complaint.

(g) Authorizes the attorney general, if the attorney general determines that a complaint filed under Subsection (f) against an entity described by Subsection (a) is valid, to file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of an entity described by Subsection (a) is located to compel the entity that adopts a rule, order, ordinance, or policy under which the local entity prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) or that, by consistent actions, prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) to comply with Subsection (c). Authorizes the attorney general to recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(h) Provides that an appeal of a suit brought under Subsection (g) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. Requires the appellate court to render its final order or judgment with the least possible delay.

SECTION 2. Amends the heading to Chapter 370, Local Government Code, to read as follows:

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

SECTION 3. Effective date: upon passage or September 1, 2011.