

BILL ANALYSIS

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S.B. 358
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires states to comply with federal immigration law. Specifically, current federal law prohibits states from enacting policies that prohibit the sharing of immigration between state law agencies and federal law agencies. Some cities in Texas are operating in violation of federal law by imposing sanctuary city policies.

Sanctuary city policies have encouraged state law enforcement to violate federal immigration law. Federal immigration officials and state law enforcement must work together to combat illegal immigration. State law enforcement agencies must cooperate as required to help federal officials enforce immigration law. These agencies can do that by allowing federal officials access to state jails, providing police backup when necessary, and sharing immigration status or immigration-related information, such as place of birth, with the United States Citizenship and Immigration Services (CIS).

Federal law makes it illegal for a state to prohibit or restrict the sharing of information from CIS regarding the citizenship or immigration status of any individual. However, sanctuary city policies tend to do just that. Sanctuary city policies include refusing detainers from CIS, meaning the release of illegal aliens who have committed crimes within the state; refusing to cooperate and aid CIS officials in CIS enforcement operations; and refusing to allow CIS officials into jails so that CIS can detect illegal aliens and enforce immigration laws.

As proposed, S.B. 358 amends current law relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Governor's Office of Budget, Planning, and Policy in SECTION 1 (Section 370.003, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 370.003, Local Government Code, as follows:

Sec. 370.003. New heading: LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF STATE AND FEDERAL LAWS. (a) Creates this subsection from existing text. Prohibits the governing body of a municipality, county, rather than the commissioners court of a county, or special district or authority, or 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, county attorney, district attorney, or criminal district attorney from adopting a policy under which the entity will not fully enforce the laws of this state or federal law, including laws relating to:

- (1) drugs, including Chapters 481 (Texas Controlled Substances Act) and 483 (Dangerous Drugs), Health and Safety Code; and
- (2) immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.), rather than federal law.

(b) Prohibits a local entity described by Subsection (a), in compliance with Subsection (a)(2), from prohibiting or in any manner restricting an officer, employee, or other body that is part of the local entity, including a sheriff, municipal police department, municipal attorney, county attorney, district attorney, or criminal district attorney from doing any of the following:

(1) with respect to information relating to the immigration status, lawful or unlawful, of any individual sending the information to or requesting or receiving the information from the U.S. Citizenship and Immigration Services, including information regarding an individual's place of birth; maintaining the information; or exchanging the information with another federal, state, or local governmental entity;

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

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

(c) Prohibits a local entity described by Subsection (a) from receiving state grant funds if the local entity adopts a rule, order, ordinance, or policy under which the local entity will not fully enforce the laws of this state or federal laws relating to Subsection (a)(2) or, by consistent actions, fails to fully enforce the laws of this state or federal laws relating to Subsection (a)(2). Requires that state grant funds for the local entity be denied for the fiscal year following the year in which the rule, order, ordinance, or policy is adopted or the determination is made that the entity has intentionally failed to fully enforce the laws of this state or federal laws relating to Subsection (a)(2). Requires the Governor's Office of Budget, Planning, and Policy to adopt rules to implement this subsection uniformly among the state agencies from which state grant funds are distributed to a local entity.

(d) Authorizes any citizen residing in a local entity described by Subsection (a) that allegedly adopts a rule, order, ordinance, or policy under which the local entity will not fully enforce the laws of this state or federal laws relating to Subsection (a)(2) or, by consistent actions, fails to fully enforce the laws of this state or federal laws relating to Subsection (a)(2) to file a petition in a district court of a county in which the entity is located for a writ of mandamus to compel compliance with Subsection (a)(2).

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, 2009.