

SUBJECT: Prohibiting certain local policies on immigration law, federal detainers

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 7 ayes — Cook, Craddick, Geren, Kuempel, Meyer, Paddie, Smithee

5 nays — Giddings, Farrar, Guillen, Oliveira, E. Rodriguez

1 absent — K. King

SENATE VOTE: On final passage, (February 8) — 20 - 10 (Garcia, Hinojosa, Lucio, Menéndez, Miles, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: For — Matt Long and Angela Smith, Fredericksburg Tea Party; Michael Najvar; Michael Openshaw; (*Registered, but did not testify*: Fran Rhodes, NETarrant Tea Party; Michael McCloskey, Republican Party of Texas; AJ Louderback, Sheriffs' Association of Texas; Janet Thomas, Texans for Immigration Reduction and Enforcement; Bill Hussey; Jose Melendez; Susan Najvar;)

Against — Kali Cohn, ACLU of Texas; Patricia Fernandez, AILA; Jannell Robles, AILA, law office of Velia E. Rosas; Faye Kolly, American Immigration Lawyers Association; Javier Salazar, Bexar County Sheriff, Bexar County Sheriff's Office; Daisy Arvizu, Angel Ayala, Maria Dominguez, Nelly Miranda, Jennifer Parra, Adelaida Roque, and Shaneanea Rosales, Border Network of Human Rights; Beatriz Lozano, Border Network of Human Rights, RITA; Justin Estep, Catholic Charities of Central Texas; Benjamin Perez, CEAT; Abel Lopez and Mary Lopez, CEAT Pastors Alliance; Brian Manley, City of Austin; Gerald Pruitt, City of Fort Worth; Shirley Gonzalez, Rey Saldana, and Roberto Trevino, City of San Antonio; Eddie Canales, Corpus Christi Immigration Coalition; Shelley Knight, Dallas Sheriff's Department; Jo Anne Bernal, El Paso County; Bill Beardall, Equal Justice Center; Rolando Almaraz, Marlene Chavez, and Nahiely Garcia, Equal Voice Network of Rio Grande Valley; Julio Acosta, Kevin Canto, Jalyn Castro, Mari Chazarreta, Gloria Gonzalez Garcia, LaToya Murray, Andrea Najera, Jose Reboloso,

and Lilia Velazquez, Faith in Texas; Maria Robles, Faith in Texas, RITA; Nicolasa Casimiro, Alma Cooper, Marleny Diaz, Cesar Espinoza, and Johanna Sanchez, FIEL (Familias Inmigrantes y Estudiantes en la Lucha); Sofia Casini and Bob Libal, Grassroots Leadership; Ed Gonzalez, Harris County Sheriff's Office; James Lee, Hispanic Caucus - Texas Democratic Party; Zeph Capo, Houston Community College - District 1; Fran Watson, Houston GLBT Political Caucus; Matt May, Houston Police Department; Marivel Reyes, Iglesia El Shaddai; Marlon Duran, La Union del Pueblo Entero; Esmeralda Garza, Latino Leaders; Stacey Garza, Latino leadership; Chris Frandsen, League of Women Voters of Texas; Isidro Garza, LULAC, Cesar E. Chavez; Celina Moreno, Mexican American Legal Defense and Education Fund; Carlos Duarte and Anabella Fernandez, Mi Familia Vota; Gilberto Avila, One New Creation Church; Anandrea Molina, Organizacion Latina de Trans en Texas; Felix Jimenez, Proyecto Defensa Laboral; Ileana Nuñez, Red Fronteriza por los Derechos Humanos; Justin Tullius, Refugee and Immigrant Center for Education and Legal Services (RAICES); Crystal Avila and Roberto Valadez Pena, RITA; Anthony Trevino, San Antonio Police Department; Maria Dominguez, Sandra; Lyndon Rogers, Southwest Hispanic Convention of Christian Churches; Enedelia Obregon, St. Thomas More Catholic Church; Norman Adams, Texans for Sensible Immigration Policy; Belinda Harmon, Texas Association of Chicanos in Higher Education; Bishop Joe Vasquez, Texas Catholic Conference of Bishops; Jaime Puente, Texas Graduate Student Diversity; Joshua Houston, Texas Impact; Yannis Banks, Texas NAACP; Chuck Freeman, Texas UU Justice Ministry; Jennifer Ramos, Texas Young Democrats; Adonias Arevalo, Stacey Garza, Rosa Hernandez, Karla Perez, Linda Rivas, Alice Serna-McDougall, Marisol Valero, and Grisel Villarreal, United We Dream; Alondra Chavez, United We Dream Houston, fvaldezlaw; Frances Valdez, United We Dream, American Immigration Lawyer Association; Daniel Candelaria, United We Dream-Houston; Daniel Barrera, Juan Belman, Estefania Ponce-Dominguez, and Vanessa Rodriguez, University Leadership Initiative; Alisa Hernandez, UT Chapter Amnesty International; Erin Walter, Wildflower Church; Maria De Jesus Garza, Stephanie Gharakhanian, Ana Gonzalez, Sergio Govea, Priscila Lopez, Lizeth Martinez, Silvia Martinez, Janay Membrano, Wendy Membrano,

Samantha Robles, and Adriana Velazquez, and Sandy Romero, Workers Defense Project; Jacob Aronowitz, Young Active Labor Leaders; and about 42 individuals; (*Registered, but did not testify*: Agustin Campos, a church; Abraham Perez, Alianza Latina Ministerial de Austin; Carmelita Perez and Esmeralda Rodriguez, ALMA; Sean Hassan, Austin Community College; Shane Johnson and Sukyi McMahon, Austin Justice Coalition; Susanaw Pimiento, Austin Language Justice Collective; Steve Landsman, Austin Sanctuary Network; Josefina Castillo, Austin Tan Cerca de la Frontera; Michael Harris, Blackland Neighborhood Association; Jose Alvarado, Briana Arias, Adaijah Arvizu, Jose Ayala, Miguel Ayala, Itzel Campos, Tania Galindo, Jasiel Lira, Alexandra López, Jose Luis, Idaly Ochoa, Maria Roa, and Jesus Torres, Border Network of Human Rights; Martina Dominguez, Border Network of Human Rights, RITA; Sadrach Alfaro, Daniel Arenas, Ronal Bonilla, Nestor Gonzalez, Ricardo Gonzalez, Susana Grande, Gabriel Izquierdo, Maria Jimenez, Gabriel Lance, Fabian Lopez, Julia Lopez, Cinthia Martinez, Julio Mejia, Arturo Mendez, Oscar Mondragon, Neftali Quintana, Jose Luis Rios, Jose Trejo, Samuel Trejo, Cinthya Valle, Mariza Valle, Martin Roberto Valle, and Melody Valle, CEAT; Dorothy Ann Compton, Green Acres Activists (GAA); Vincent Harding, Chair of Travis County Democratic Party; Patty Cerpa, Sara Esquivel, Cindy Solis, and Moses Solis, CHEAT; Tom Tagliabue, City of Corpus Christi; Gary Tittle, City of Dallas, Dallas Police Department; Guadalupe Cuellar, City of El Paso; Ashley Nystrom, City of Waco; Hilda Gutierrez, Communities of Color United; Fatima Mann, Counter Balance: ATX; Barbara Fetonte, Democratic socialist, TSEU, Our Revolution; Daniel Fetonte and Colin Gray, Democratic Socialists of America; Padma Swamy, Doctors For Change; Emma Perez Treviño, Francisco Ramos, Michael Seifert, and Gabriela Zavala, Equal Voice Network of Rio Grande Valley; Ash Hall, Equality Texas; Ken Flowers, Nora Gomez, Mikaela Gonzalez, Melissa Hernandez, Juan Loya, Alma Martinez, Christopher Nery-Gomez, Hilda Olvera, and Elizabeth Reyes-Palacio, Faith in Texas; Mariza Nery and Eliana Palacio, Faith in Texas, RITA; Brandon Gonzalez, Francisco Gonzalez, Maria Gonzalez, Maria Rios, and Felicitas Rivas, FIEL (Familias Inmigrantes y Estudiantes en la Lucha); Fabio Gimenez, First Baptist Church Ministerio Hispano Puertas Abiertas; Aileen Bazan, Grassroots Leadership; Noe Camacho and

Rosa Maria Camacho, Iglesia Jesucristo Manantiales De Vida; Nicolas Trejo, Iglesia Riverwood; Jose Munoz, Iglesia de Dios Refugio al Sedinto; Alejandro Gutierrez and Christiane Krejs, Immigrants United; Eva Esparza, Indivisible; Michael Gregory Lewis and Glenn Scott, Left Up To Us; Lupe Mendez, Librotradicante Movement; Cyrus Reed, Lone Star Chapter Sierra Club; Sylvia Collins and Magali Vazquez, LULAC; Daniel Diaz, Lupe; Susanna Woody, LUTU, Our Revolution Central Texas; Sandra Elias, MT Community Services; Sylvia Roberts, my church; Will Francis and Nakia Winfield, National Association of Social Workers - Texas Chapter; Nancy Cardenas, National Latina Institute for Reproductive Health; Liliana Pierce, Our Revolution; Lee Cameron, People Power ACLU; Bill Sanderson, Pleasant Mound Methodist Church; Maura Benson, Proyecto Defensa Laboral; Robert Heyman, Reform Immigration for Texas Alliance; Marissa Ocampo, Resistance; Kate Lee and Carlos Lira, RITA; Jim Rigby, Saint Andrews Presbyterian Church; C. LeRoy Cavazos, San Antonio Hispanic Chamber of Commerce; Cydney Henderson, San Marcos Unitarian Universalist Congregation; Elaine Betterton, St Andrews Presbyterian Church; John Soto, Student Government of Palo Alto; Jorge Renaud, Texas Advocates for Justice; Rene Lara, Texas AFL-CIO; Cathy Dewitt, Texas Association of Business; Elizabeth Lippincott, Texas Border Coalition; Manny Garcia, Texas Democratic Party; Lupe Torres, Texas LULAC; Harrison Hiner, Texas State Employees Union; Miyah Calhoun, Texas Unitarian Universalist Justice Ministry (TXUJMJ); Kolby Duhon and Celia Morgan, Texas Young Democrats; Dwight Harris, Texas AFT; Carisa Lopez, Travis County Democratic Party; John Burleson, Travis County Resistance; Araceli Campos and Maricela Galvan, ULI; Liane Bailey, Andrea Chavez, Ramiro Gonzalez, Sandra Gonzalez, Irving Hernandez, Josue Rodriguez, United We Dream; Andrea Soto and Naomi Tamez, University Leadership Initiative; Jose Hernandez, UWC; Jessica Castilleja, Workers Defense Fund; Virginia Badillo, Maria Guadalupe Capetillo Guzman, Genoveva Castellanos, Mariana Celestino, Robert Delp, Catherine Eisenhower, Karen Escobedo, Arash Frarasat, Juan Garcia, Leonel Garcia, Maximina Garcia, Francisco Guzman, Cristian Huerta, Sofia Morales, Cecilia Ontiveros, Lourdes Ontiveros, Mario Ontiveros, Diana Ramirez, Miguel Tellez, Sameer Tharakan, Emily

Timm, Ryan Twomey, Eliseo Vazquez, Workers Defense Project; Angela-Jo Touza-Medina, YWCA Greater Austin, Immigrant Services Network of Austin; and about 291 individuals)

On — Angela Benavides Garza, Austin Texas Woman of God Woman of The United Nations; Kathryn Freeman, Christian Life Commission; Brantley Starr, Office of Attorney General; (*Registered, but did not testify*: Scott Houston, Texas Municipal League; Andres Castillo; Evan Finley; Denise Gilman; Thomas Parkinson)

DIGEST:

CSSB 4 would prohibit local government entities and campus police from adopting certain types of policies, patterns, or practices that prohibit the enforcement of state or federal immigration law. It would establish a process for handling complaints about violations of these provisions and require law enforcement agencies to comply with federal detainer requests. It also would authorize community outreach policies related to the bill, establish a grant program for local entities, and amend procedures relating to bail bonds in certain cases where lawful presence in the country is an issue. Local entities would include the governing bodies of cities, counties, and special district authorities and divisions, departments, or other bodies that were part of these entities and certain officers and employees of them.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017. It would be the intent of the Legislature that provisions in the act would be severable from each other and that if any provision was found by a court to be invalid, the remaining provisions would not be affected.

Local policies. CSSB 4 would prohibit local entities and campus police departments from adopting or enforcing policies that prohibited the enforcement of state or federal immigration laws and from demonstrating by their patterns or practices that they prohibited the enforcement of immigration laws. Entities and departments could not have a pattern or practice of prohibiting their employees from:

- inquiring into the immigration status of those who were arrested;
- sending certain information about those arrested to, or requesting it from, federal officials,
- maintaining the information or exchanging it with other local entities or campus police departments or federal or state government entities;
- assisting or cooperating with federal immigration officers, if requested and if reasonable and necessary; and
- allowing federal immigration officers to enter and conduct enforcement activities at jails.

Local entities, campus police departments, and their employees could not consider race, color, religion, language, or national origin when enforcing immigration laws, except as allowed by the state or federal constitutions.

These prohibitions on policies would not apply to:

- local hospital or hospital districts created under the Health and Safety Code, hospitals owned or operated by institutions of higher education, and hospitals districts created under Article 9 of the Texas Constitution to the extent that the hospital was providing medical or health care services as required under certain state or federal laws;
- peace officers working for one of the above hospitals or hospital districts or commissioned by a hospital or hospital district;
- local public health departments;
- school districts or open-enrollment charter schools;
- peace officers employed or contracted by a religious organization while employed by the organization; and
- the release of information in the records of an educational agency or institution, except in conformity with federal law governing the privacy of student education records.

When investigating an offense, peace officers could ask about witnesses'

or victims' immigration status or nationality only if necessary to investigate the offense or to provide the victim or witness with information about federal visas designed to protect individuals who assisted law enforcement. Peace officers would not be prohibited from conducting separate investigations of other alleged offenses. Officers also would not be prohibited from making such inquiries if there was probable cause to believe the victim or witness committed a separate crime.

Violations, complaints. Complaints that local entities or campus police departments had violated CSSB 4's provisions about policies on immigration enforcement could be filed with the attorney general by citizens living in a local entity's jurisdiction or citizens enrolled in or employed by a higher education institution. The complaints would have to include facts supporting an allegation that the entity or campus had violated CSSB 4 and a sworn statement from the citizens that to the best of their knowledge, the assertions were true and correct.

Upon determining that a complaint was valid, the attorney general could sue entities or departments in a district court in Travis County or a county where the government entity's office was located to compel compliance with CSSB 4. An appeal of one of these suits would be governed by procedures for accelerated appeals in civil cases.

Local entities or campus police departments that intentionally violated the bill would be subject to civil penalties of \$1,000 to \$1,500 for the first violation and \$25,000 to \$25,500 for subsequent violations. Each day of a continuing violation would count as a separate violation, and courts hearing the cases would determine the penalty. Penalties would go into the crime victims' compensation fund.

Federal detainer requests. The bill would require law enforcement agencies to take certain actions when they had custody of someone subject to a federal request to detain the person. The agencies would have to comply with the federal requests and would have to tell people that they were being held due to a federal immigration detainer request. Agencies would not have to hold people who provided proof that they were U.S.

citizens.

CSSB 4 would require the attorney general, if requested, to defend local entities in lawsuits related to the entities good-faith compliance with federal immigration detainer requests. In these cases, the state would be liable for any expenses and settlements.

The bill would create a new crime for certain law enforcement authorities who knowingly failed to comply with immigration detainers. It would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for sheriffs, police chiefs, constables, or others with primary authority for administering a jail to knowingly fail to comply with a federal immigration detainer request. It would be an exception to this requirement if the person subject to the detainer request had provided proof of U.S. citizenship. A conviction of this offense would be grounds for the immediate removal from office of the official.

CSSB 4 would require that judges took certain actions when a criminal defendant who was subject to a federal immigration detainer request was sentenced to a correctional facility. Judges would have to order the facility to require the defendant to serve up to the last seven days of a sentence in federal custody, following the facility's determination that the change would facilitate the seamless transfer of the defendant into federal custody. Federal officials would have to consent to the transfer.

Community outreach policies. CSSB 4 would allow law enforcement agencies to adopt a written policy requiring the agency to do community outreach to educate the public that peace officers could not inquire into the immigration status of crime victims or witnesses unless certain conditions were met. The officer could make such an inquiry if the officer determined it was needed to investigate the offense or to provide the victim or witness with information about federal visas designed to protect individuals who assisted law enforcement. Policies would have to include outreach to victims of family violence and sexual assault.

Grant program. The governor's criminal justice division would be

required to create a grant program to give financial help to cities and counties to offset costs related to enforcing immigration laws or complying with federal requests to maintain custody of someone relating to immigration laws. The division could use any available revenue for the program.

Bonds. The bill would create a new circumstance under which bail bond sureties would not be relieved of their responsibility for those they executed bonds for. The surety's responsibility would not be relieved if the accused were in federal custody to determine the person's lawful presence in the United States.

SUPPORTERS
SAY:

CSSB 4 would enhance public safety by ensuring that local entities were not working under policies or practices that prohibited the enforcement of immigration law and would make sure that local officials worked with federal authorities to keep dangerous criminals off Texas streets.

Certain cities — sometimes called sanctuary cities — or other local entities could have policies or practices that prohibit law enforcement officers from certain inquiries or actions related to immigration law. In other cases, entities may not be complying with federal requests to hold illegal immigrants who are in local jails until federal authorities can pick them up. CSSB 4 would address these situations by prohibiting policies that work against immigration laws. Texas law enforcement authorities should not be able to choose which laws they enforce, and there should not be even a perception that Texas law enforcement officers are hamstrung from enforcing immigration laws.

CSSB 4 should not affect the vast majority of cities and entities in Texas, most of which report to operate in compliance with the bill.

Local policies. CSSB 4 would enhance public safety by ensuring all law enforcement officers in Texas worked under uniform standards that did not allow them to be restricted from upholding state and federal immigration laws. To comply with the bill, local entities simply would have to refrain from adopting or practicing certain policies. The bill would

not take away local entities' control over their law enforcement officers but would ensure all officers could uphold all laws and protect the public. CSSB 4 has several provisions to ensure that it is focused on those who are a danger to the public. It is narrowly drawn to apply to inquiries and information only of those who have been lawfully arrested and not to affect law-abiding people, no matter what their immigration status.

The bill would not authorize officers to stop people solely to enforce immigration laws and would not allow questions about immigration status of those who merely were detained by officers. Instead, it would focus on those who were arrested in order to avoid any potential confusion about its meaning. Texas peace officers would not be required to act as immigration agents, to determine anyone's immigration status, or to deport anyone.

To be subject to the bill's civil penalties, entities would have to have policies that were prohibited by the bill or a "pattern or practice" of the prohibited actions. The bill would not include language prohibiting policies that "discourage" actions because the term can be vague. CSSB 4 would not include a requirement for entities to formalize their policies because it focuses on policies, patterns, and practices, which would be formalized or discernable. Local entities acting in good faith under policies that do not prohibit these actions or ones with an isolated incident in violation of the bill would not fall under the high bar that would trigger potential sanctions.

CSSB 4 would not harm law enforcement officers' relationships with communities. The bill is focused on those who committed crimes, and dealing appropriately with these offenders would make communities safer for everyone, including immigrants. The bill would restrict inquiries about the immigration status of witnesses and victims and would address concerns about misinformation in communities by authorizing community outreach programs on these topics. The bill would target only criminals, who have a negative impact on our economy. A safer community supports those who contribute positively to our economy.

The bill would include several important exceptions, including ones for hospitals and peace officers working for them, local public health departments, schools, and peace officers working for religious organizations. CSSB 4 would include campus police, as they should work under the same policies as other law enforcement officers. Only the bill's provisions relating to the adoption of policies would apply to campus police departments.

CSSB 4 would not lead to racial or other profiling. The bill explicitly says that entities could not consider race, color, religion, language, or national origin when enforcing immigration laws, except as allowed by state and federal constitutions. Under Texas law, peace officers may not engage in racial profiling, and all law enforcement agencies must have policies prohibiting officers from engaging in racial profiling.

Violations, complaints. Allowing the attorney general to sue entities that violated CSSB 4's provisions about policies would give the law some teeth and provide a way for it to be enforced consistently throughout the state. CSSB 4 would use civil penalties assessed by courts so that the consequences of violating the bill would fall on the entity adopting the illegal policy. To avoid the civil penalties, entities simply would have to refrain from adopting policies or practices that prohibited the enforcement of immigration laws. CSSB 4 would not cut off state grant funds to local entities that violated the bill, as this could harm individuals and programs with no control over or relationship to the local entity's law enforcement policies.

The bill would establish a procedure for complaints from individuals to be funneled through the Office of the Attorney General so that the same criteria could be applied to each complaint. The bill would require that complaints come from the local jurisdiction where a violation was alleged so that issues would be raised by those most directly affected by a local policies. CSSB 4 would reduce the likelihood of unfounded or frivolous suits being brought by requiring the complaints to include facts supporting an allegation and a sworn statement that the assertions were true.

Federal detainer requests. CSSB 4 would enhance public safety and support the work of federal authorities by requiring law enforcement agencies to honor federal detainer requests. After an arrest, local law enforcement agencies send the arrestees' fingerprints to the FBI, which sends the information to U.S. Immigration and Customs Enforcement (ICE). ICE may make a request that a jail hold inmates suspected of being in the country illegally up to 48 hours after they otherwise would have been released. Not honoring these detainer requests places the public in danger by allowing criminals to return to the community and has resulted in serious crimes committed by individuals subject to detainers. This process would not have to disrupt local criminal prosecutions, and local authorities who are cooperating with ICE would be in a better position to resolve any issues before a defendant was deported.

Complying with detainer requests should not strain resources of local entities, and the bill would establish a grant program that could be used if it did. Some cost estimates use expenses that account for more days than just those an inmate waits to be picked up by ICE after a case is resolved. ICE detainers are for only 48 hours, and ICE reports picking up inmates from Texas jails quickly once a case is resolved, sometimes within a dozen or so hours. Most local entities report complying with detainer requests now, so CSSB 4 would not increase their costs.

The misdemeanor offense that CSSB 4 would create for sheriffs, police chiefs, and constables who failed to comply with federal detainer requests would be an important enforcement tool. This penalty would be directed at those responsible for not complying with the detainers, so there would be no need to impose other measures such as civil liability for those who released someone under a detainer. The bill would allow those who refuse to comply with detainers to be removed from office so that the non-compliance would cease and the public could be protected.

CSSB 4 contains important safeguards for U.S. citizens and local entities. People who were subject to a detainer but provided proof of citizenship would not have to be held. Honoring the detainer requests is legal and constitutional, and CSSB 4 would allow local entities accused of holding

someone in error to turn to the attorney general for legal defense. The bill's requirement would apply only to officially issued ICE detainer requests and would not include verbal requests. The bill also would establish a process for certain inmates under a detainer request and sentenced to correctional facilities. These inmates would be able to complete their sentences in federal custody, thereby relieving local entities of some of the costs of holding inmates under detainer requests.

Community outreach policies. CSSB 4 would support efforts by local law enforcement agencies to educate communities so that victims and witnesses knew that they could call peace officers without fears of their immigration status being an issue. The bill would authorize community outreach policies on this topic and ensure that the policies included victims of family violence and sexual assault.

Grant program. CSSB 4 would support communities and law enforcement agencies by establishing a grant program to offset costs of complying with the bill.

Bonds. CSSB 4 would address unique circumstances surrounding bonds and illegal immigrants by establishing certain circumstances under which bond sureties would not be relieved of liability. In some cases, bond sureties know that a person was under a federal detainer request and require all or most of the bond money up front. When federal authorities picked up the person, the surety might keep the funds and be relieved of liability because the defendant was in federal custody. CSSB 4 would address these abuses by making bondsmen unable to be relieved of their liability if an individual was in federal custody to determine whether the person was lawfully in the United States. The bill would focus on these narrow circumstance related to lawful presence in the country and would not impact bonding practices for others.

OPPONENTS
SAY:

CSSB 4 would interfere with the authority of local law enforcement authorities to set policies for their communities, which could make communities less safe. Immigration law already is being appropriately and adequately addressed in Texas, and local law enforcement agencies work

with federal officials to keep their communities safe and to handle undocumented persons.

Local policies. CSSB 4 would undermine local control of Texas law enforcement agencies by restricting the policies local entities could enact. Some may have policies that limit law enforcement officers' questions about immigration or other policies so that officers focus on crimes, not federal immigration law, much of which is civil. Local authorities, not the state, should decide the priorities and actions for local law enforcement officers.

Including campus police in CSSB 4 would infringe on these officials' authority as well. The inclusion of campus police would foster fear and anxiety on Texas campuses. Many immigrant students work hard to earn degrees and make positive contributions to their institutions and the state, and they should feel safe on their campuses.

CSSB 4 could harm the trust and good relationships necessary for law enforcement officers to operate successfully in the community if officers were perceived as enforcing immigration law. Crime victims and witnesses could be less likely to call police or to cooperate with them if they feared that actions could be taken against them or their families, friends, or neighbors for immigration violations. This, in turn, could endanger the community. For example, if a victim of domestic violence who was an illegal immigrant feared calling law enforcement, the perpetrator could go free and continue to harm others. In some of these cases, victims may not want to see a perpetrator deported. Workers who were not in Texas legally could become robbery targets on pay days and be afraid to draw attention to themselves by reporting the crime.

Limiting questions about immigration status to those arrested, limiting questions that could be asked of witnesses and victims, and authorizing outreach programs would not be enough to counter the effect of CSSB 4 and the perceptions that it would create. The bill could trigger racial profiling or foster fears of profiling. Immigrants in Texas are an important part of the economy, and the state should not impose barriers to their

productive participation in it.

Violations, complaints. The civil penalties that could be imposed under CSSB 4 could go too far in penalizing local entities and authorities. Immigration law is complex, and without the necessary expertise, cities, counties, and other entities could struggle to comply with the bill's provisions and state judges could struggle with interpreting federal immigration law. The state simply could set policies in this area without imposing penalties, which would be paid by local taxpayers who may have no direct control over the actions of local authorities.

Federal detainer requests. CSSB 4 would interfere with the authority of local officials to set policies best for their communities by mandating that local law enforcement agencies honor all detainer requests. Federal detainer requests are not mandatory, and questions have been raised about the constitutionality of holding persons without a warrant.

Local authorities including sheriffs, police chiefs, and constables are in the best position to set policies to protect their communities. Some authorities may have concerns about the effect that honoring all detainer requests could have on community members' fears of being deported for reporting crimes or interacting with the police. Local authorities may believe that it is best to have a policy of complying with all detainer requests for those accused of serious or violent crime while reviewing other requests and allowing judges to make decisions about who could be released safely to communities. In 2016, it cost counties millions for inmates who were subject to detainer requests, and honoring all detainers could have an impact on local resources. Complying with all detainer requests also could interfere with the prosecution of crimes if defendants were released into federal custody before their cases were resolved.

Establishing a new criminal offense for sheriffs, police chiefs, constables, and others who failed to comply with detainer requests and allowing these officials to be removed from office would go too far in infringing on the ability of local officials to set priorities for their communities.

Grant program. While CSSB 4 would create a competitive grant program to offset some of the bill's cost to local entities, there is no guarantee that all entities would receive the support they needed, and without a specific appropriation for the bill, grants would compete with other state programs.

Bonds. CSSB 2 should include language that would require sureties to know that someone was under a federal detainer request before provisions in the bill took effect. Under the bill, a surety could post a bond, and after that, an inmate could be placed under an ICE detainer and taken into federal custody. The surety would not be able to be relieved of liability, even though when the bond was posted, the surety did not know that the inmate would later go into federal custody. If sureties believe that they could be unable to be relieved of their liability, some inmates could find it difficult to obtain bonds, no matter how small an offense or the decision of a judge.

OTHER
OPPONENTS
SAY:

Local policies. CSSB 4 should include a prohibition on adopting policies that prohibit or discourage questions about the immigration status of those who were lawfully detained. Such a policy is necessary so that law enforcement officers are not hamstrung by policies that restrict questioning of those who were lawfully detained and would ensure officers were free to do their job as they considered appropriate.

The bill also should include prohibitions on policies that discouraged the enforcement of immigration law. Without such a prohibition, entities could use informal statements or other unofficial methods to thwart the purpose of CSSB 4.

Entities should be required to formalize all their policies concerning immigration law. This would allow law enforcement officers to know the rules they were operating under and would allow the public to know whether an entity was complying with the law.

Violations, complaints. CSSB 4 should authorize the loss of state grant funds to entities that violated its provisions related to enacting certain

policies. Under this type of sanction, a process could be established for complaints to be filed with the attorney general and then for entities to be notified and have a chance to remedy a violation. In such cases when an entity refused to comply with state law after a complaint and notification, denying state grant funds would be an appropriately serious penalty. Complaints from anyone, not just those in a local entity's jurisdiction, should be allowed since violating the bill could harm those living outside of a particular area.

Creating civil liability for entities that released people subject to federal detainers who later committed a felony would give victims of the crime appropriate redress. In these cases, the government entity failed the victim by releasing someone who should have been held, and the entity should be held accountable. Another appropriate penalty to hold individuals responsible for upholding the law would be a misdemeanor criminal offense for officials who intentionally or knowingly violated the bill's provisions about adopting policies.

NOTES:

The fiscal note on CSSB 4 reports no significant fiscal implication for the state to administer the bill, except for indeterminate costs and revenue gains associated with the grant program that would be established by the bill and the civil penalties that could be assessed under the bill.

The committee substitute made numerous changes to the Senate version of CSSB 4, including removing provisions:

- denying state grant funds to entities found in violation of the bill's provisions about the adoption of policies;
- prohibiting entities from adopting policies that discouraged the enforcement of immigration laws;
- prohibiting entities from barring or discouraging questions about the immigration status of those who are under lawfully detention;
- creating civil liability for entities that under certain circumstances released from custody someone who was the subject of a federal immigration detainer;
- allowing peace officers to take certain actions to enforce federal

immigration laws if acting at the request of or providing assistance to federal officers or under an agreement with the federal government and certain circumstances are met;

- creating a misdemeanor offense for elected local officials and those appointed by local entities who violated the bill's provisions relating to not adopting certain policies; and
- requiring law enforcement agencies to formalize any unwritten or informal policies relating to immigration laws and to make their policies consistent with the bill.

The committee substitute also added several provisions, including ones:

- requiring law enforcement agencies to inform persons if they were being held due to a federal immigration detainer request;
- making local entities' patterns and practices a way to determine non-compliance with the bill;
- describing when there could be certain questions asked of victims and witnesses, including when the information was necessary to investigate an offense or to provide information about protection to victims and witnesses;
- authorizing complaints to the attorney general about violations of the bill from citizens in the jurisdiction of the local entity, rather than from any person;
- creating a misdemeanor offense for sheriffs, chiefs of police, and constables who fail to honor immigration detainees;
- requiring the attorney general to defend local entities sued due to good-faith efforts to comply with federal detainer requests;
- relating to surety bonds; and
- creating a grant program to assist local entities.