



# Legislative Study Group

## Texas House of Representatives

LSG Analysis and Evaluation on Proposed CSSB4

Committee: Senate State Affairs

Evaluated By: Andrea Elizondo and Serena Ahmed

Recommendation: Unfavorable

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### OVERVIEW

The bill is relating to the enforcement by certain local governmental entities and campus police departments of state and federal laws governing immigration, and relating to duties of certain law enforcement and judicial entities in the criminal justice systems.

**Undocumented Status** means that these group of individuals do not have the legal paperwork required to get a job and are unable to access many resources provided by the state and federal governments. In addition to restrictions from work and government services, undocumented individuals live each day with the threat of deportation and, ultimately, the possibility of separation from their family.

**Sanctuary cities or campuses** refer to counties, municipalities or colleges that strive to promote the dignity, well-being and safety of their community. sanctuary cities or campuses refer primarily to how local law enforcement may not always comply with ICE detainer requests, since complying with those requests has been ruled unconstitutional by multiple federal courts (see references below).

CSSB 4 denies state grant funds to independent local entities – including all entities under their jurisdictions, or campus police departments – that prohibit or discourage the enforcement of immigration laws specified in this bill. Activity the state is attempting to coerce local entities to engage in includes:

- Inquiring into the immigration status of a person under lawful detention, even those that have only committed a civil offense as opposed to a criminal offense;
- Sending, maintaining or exchanging information with other local entities, federal or state governmental entities, campus police departments, U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement (ICE), or other relevant federal agencies;
- Assisting or cooperating with a federal immigration officers, including providing enforcement assistance such as in cases of stopping a motor vehicle or conducting a search of a business of residence, at the request of appropriate federal law enforcement officers or agencies; and
- Permitting a federal immigration officer to enter and conduct enforcement activities at a jail.

#### **Funding streams subject to SB 4**

CSSB4 could eliminate state-funded programs for a number of local police departments that are aimed to help our most vulnerable populations. Those programs include but are not limited:

- Building Capacity to Recover and Restore Survivors of Child Sex Trafficking
- Child Sex Trafficking Programs (CST)
- Crime Victims Assistance Grant Program (VOCA)
- Juvenile Justice Delinquency Prevention Program (JJDP)
- Residential Substance Abuse Treatment for Prisoners (RSAT)
- Sexual Assault Services Formula Grant Program (SASP)
- STOP Violence Against Women Formula Grant Program (VAWA)



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### **CSSB4 Exemptions Don't Exclude Vulnerable Institutions, Like Hospitals and Schools**

The bill exempts hospitals (but not hospital officers) and schools (public and charter). It also exempts victims of crime, witnesses of crime, and individuals that report a crime. It does not exempt private schools, higher education institutions, nor religious institutions. Sen. Lucio offered an amendment during the committee hearing to make sure there is an exemption for churches mentioned in this bill. Exemptions of state funding cuts will be programs that serve security purposes such as body cameras.

This bill does not allow detainees to sue their detainers. Local governments that release an undocumented individual that goes on to commit a crime within 10 years could be sued by the victim of the crime.

### **SB Requirements Ignore Previous Court Decisions**

A primary intention of CSSB 4 is the enforcement of immigration detainers—written and verbal. This is a tool that ICE uses to request a local law enforcement agency to detain an individual for an additional 48 hours (excluding weekends and holidays) **after** the individual's lawful detention release date. ICE requests detainers to buy themselves time to determine the person's immigration status and, thus, if they should be taken into federal custody for subsequent deportation.

An increasing numbers of federal court decisions have ruled the practice of ICE detainers by state and local law enforcement agencies as unconstitutional because they violate fourth, fifth and fifteenth amendment rights. Examples of those cases include:

- In September 2016, U.S. District Judge John Z. Lee in Illinois ruled that the Department of Homeland Security's (DHS) use of detainers exceeded their legal authority, since subjects were detained without a warrant.
- In 2014, federal courts in Pennsylvania and Rhode Island ruled that immigration detainers are not warrants and do not amount to probable cause.
- In 2014, a federal magistrate judge in Portland, Janice M. Stewart, also ruled the detainers violated "unreasonable searches and seizures."

**CSSB 4 enforces compliance with ICE detainers and is therefore a violation of U.S. Constitutional rights. Individuals subjected to ICE detainers after committing criminal offenses are refused immediate release on bond, or after they are otherwise eligible for release. This is a violation of due process, unreasonable search and seizure, and the need for probable cause.**

Local entities and campus law enforcement would be left to choose between breaking U.S. Constitutional law and breaking state law, which could cause them to lose state funding for necessary human services.

### **SB 4 Disproportionally Impacts Latino Populations**

CSSB4 states that racial profiling is illegal; yet, the bill provides a legal avenue for law enforcement officers to racially profile Latinos. Even though Latinos do not make up the entire undocumented population living in Texas, Latinos will be racially profiled by police due to the color of their skin, their accent, or even the car they drive – as many Texas citizens testified during the committee hearing.



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### **If Implemented, CSSB4 Will Cause Fear and Discourage Victims from Reporting Crimes**

Even though the bill states that victims of crime and witnesses of crime will be exempt, undocumented and legal immigrant individuals are unlikely to report crimes to their local police due to the fear of the potential consequences of being prosecuted. The trust among the immigrant community and local law enforcement will be lost and law enforcement agencies won't be able to accomplish their mission to keep communities. Prominent law enforcement agencies across Texas are opposed to CSSB4 for this reason.

CSSB4 is likely to encourage immigrant communities to remain in the shadows, knowing they would live in fear that one traffic stop on the way to dropping off their kids to school, going to church, or buying groceries could result in deportation without due process. Since this bill exempts hospitals but not hospital police, these individuals may also be fearful in getting their health needs checked.

### **CSSB4's Potential Harmful Impacts on Texas Families and Children**

Raising children in the United States without legal status adds challenges to the already stressful task of parenting. Fear of detection and deportation that could lead to family separation can make parents feel powerless to protect their children from the impact and stigma anti-immigrant sentiment.

Unconstitutional immigration policies negatively impact Latino immigrant families, regardless of whether a family member is actually detained or deported. According to a report from the *University of Houston Graduate School of Social Work & UT Child and Family Research Institute*, the possibility of separation from their children in the United States or their placement in the foster care system. Parenting stress is associated with lower life satisfaction, higher depression, greater marital discord, and increased likelihood of separation or divorce. Children whose parents experience high levels of parenting stress exhibit greater mental health problems and, for younger children, lower academic achievement.

### **LSG Joins Law Enforcement Agencies to Oppose CSSB4**

Local police officers are not trained in immigration law; CSSB 4 blurs these lines of power. Local police officers should not prioritize the needs of the federal government. CSSB 4 strips away local control and turns Texas' local law enforcement agencies into an arm of the federal government.

At the February 2, 2017 hearing, San Antonio Police Chief William McManus testified that the City of San Antonio was not a Sanctuary city but wanted to highlight concerns with SB 4:

*"This bill usurps the authority of police chiefs to direct their departments...we simply do not have the capacity to handle immigration laws as well as enforcing the laws of the penal code."*

CSSB 4 is misguided because there exists no evidence that alleged "sanctuary" cities are more dangerous than any other city. The bill appears to be less about making our communities safer, and more about dehumanizing and degrading immigrants. No human is illegal and no community deserves to be punished for thinking so. Texas leaders should value the dignity & worth of the state's diverse communities by making sure that they are supported and respected in their decisions to help keep their neighborhoods safe. **For these reasons, the LSG deems such legislation unfavorable.**